



NATIONAL COMPETITION POLICY

Progress Report:

*Implementing National
Competition Policy in
Western Australia*

REPORT TO THE
NATIONAL COMPETITION COUNCIL

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1. INTRODUCTION

Western Australia continues to be strongly committed to National Competition Policy (NCP) as an important part of its micro-economic reform program. In accordance with NCP agreements, the focus of Western Australia's NCP program, as with the State's micro-economic reform in general, is to increase competition where it is in the public interest to do so. Assessment of what is in the public interest must give full consideration to social, environmental and regional objectives as well as economic objectives.

NCP is essentially an extension of the earlier microeconomic reforms of the 1990s. Western Australia has benefited from these reforms and anticipates further benefits to flow from the implementation of NCP.

Significant progress has been made in implementing NCP over the past year. Major achievements in Western Australia's NCP program during this period include progress in developing free and fair trading in gas; further development of access arrangements; implementation of water reforms; and the completion of an additional fifty three legislation reviews, approximately half of which have generated reform outcomes in the public interest.

This report covers the annual reporting requirements under the Competition Principles Agreement, Conduct Code Agreement and the Agreement to Implement the National Competition Policy and Related Reforms. Achievements up to 31 December 1998 are included in this report. In the case of the legislation review program the report also includes reviews completed at that time and subsequently endorsed by Cabinet.

2. LEGISLATION REVIEW

Western Australia's legislation review and reform program continues to make strong progress in reviewing legislation restricting competition and is on track for completion by December 2000. All reviews are being undertaken in accordance with the Competition Principles Agreement, and Western Australia's Clause 5 Legislation Review Table and Legislation Review Guidelines.

A major outcome of the reviews is Western Australia's substantial and accelerating program to implement reform 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 of the restrictions.

2.1 Progress of Review Program

Western Australia has made substantial progress in its legislation review program. Seventy-eight review reports have been completed and endorsed by State Cabinet. Two review reports have been completed but not yet endorsed by Cabinet and a further thirty-five reviews are underway. Fifty-three of the reviews have been completed and endorsed by Cabinet since January 1998.

Details of the review status of each review and outcomes from reviews endorsed by Cabinet are provided in Attachment 1.

2.2 Review Process

Western Australia's legislation review process has been conducted in accord with the State's Legislation Review Guidelines. The Guidelines are based on the Competition Principles Agreement and endorsed by the Western Australian Government. The Guidelines were published in early 1997 and have been widely circulated.

The Guidelines are designed to achieve robust reviews through a balanced and independent review process, which provides an opportunity for input from all interested parties and rigorous review procedures. However, the Guidelines also recognise that:

- materiality is important so that reviews likely to be of minor consequence should not be highly resource intensive; and
- Government Ministers need to be responsible for reviews in their portfolio, so that they have ownership of review outcomes.

Important aspects of the review process adopted in all Western Australian reviews which are derived from the State's Legislation Review Guidelines, include a requirement:

- for a terms of reference which includes at least clause 5(9) of the Competition Principles Agreement and may include other relevant specifications;
- for independent oversight of reviews where there are strongly held and divergent views in the community and where the agency which might otherwise conduct the reviews is perceived to be biased;
- that where a review panel is established and parties with a particular interest are on the panel, that a balance be achieved by including on the panel parties with different interests; and
- that where there are strongly held and divergent views in the community, that all interested parties should have the opportunity to make a submission or to consult with reviewers.

Awareness of the opportunity to input to reviews is generally achieved through newspaper advertisements, articles and/or seminars as well as direct contact with interested parties. To assist the community's understanding and awareness of the review program, an advertisement is placed in *The West Australian* early each year listing all NCP reviews for that year and encouraging interested parties to input to the reviews.

One development since the Guidelines were published, which enhances Western Australia's legislation review process is the release of issues papers by reviewers at an early stage in the review. This practice is a feature of important reviews, especially where there are strongly held and divergent views in the community.

Other action has been taken to improve the rate of progress and cost effectiveness of the review program, including:

- Cabinet approval for a National Competition Policy Omnibus Bill to efficiently implement amendments and repeals resulting from legislation review. This Bill will assist in ensuring that the significant challenge of implementing all amendments and repeals can be achieved before December 2000.
- rigorous prioritisation of reviews to help ensure that reviews are appropriately resourced. Clear identification of lower priority reviews where streamlining the process can be justified, and high priority reviews which warrant substantial input, is important.

2.3 Review Outcomes

The public interest case for retaining or removing restrictions on competition has been rigorously analysed in all of the completed reviews. More than half of the completed reviews recommend that one or more restrictions on competition should be removed in the public interest, although in total, more restrictions have been retained for public interest reasons than removed.

The review program to date has resulted in recommendations to remove restrictions, some of which will achieve significant reforms but there are also many small reforms which are worthwhile but will not have a major impact. Some of the more significant reforms to date are:

- The repeal of the *Bread Act 1982* will remove a number of onerous restrictions on competition. Reforms will include removal of:
 - licensing requirements for bake-houses;
 - restrictions on the time at which bread can be delivered; and
 - requirements for marking vehicles used for delivering bread.
- Exclusive licences to provide port services such as towage, pilotage and stevedoring can now only be granted by the responsible Minister who must, in making his decision, consider whether public benefits from exclusivity exceed public costs.
- Changes to the *Betting Control Act 1954* will enable bookmakers to compete with the Totalisator Agency Board on a more level footing with the removal of several restrictions on their activities.
- The review of the *Painters Registration Act 1961* found that the current system of mandatory licensing is too restrictive and should be removed. The review recommended that a certification scheme be developed to allow consumers to readily identify painters who possess particular skills. It is proposed that the certification be supported by a system of negative licensing allowing for the removal of persons who do not adhere to basic standards of commercial conduct from the industry. These changes will reduce business costs but will still enable some control of the industry and certainty for consumers.

- Changes to the *Licensed Surveyors Act 1909* will reduce the risk that the Board will restrict competition by unnecessarily refusing people entry to the surveying profession. The changes provide a clearer definition of what constitutes good fame and character, with particular regard to any previous criminal record including business fraud and/or dishonest business practices. It is accepted that being "of good fame and character" is an appropriate test for admission to the profession of surveyors, but it is undesirable that the expression is open to the Licensing Board's interpretation.
- The review of the *Chicken Meat Industry Act 1977* and associated Regulations has recommended that the legislation be amended to allow broiler growers to negotiate contracts with processors outside of the existing compulsory collective contract system. The amendments will allow for greater flexibility in the contracts struck between growers and chicken meat processors and promote competition within the industry. Retaining a voluntary collective contract arrangement is in the public interest because it offers some protection to broiler growers from the strong market position of the two large chicken meat processors in Western Australia.
- The review of the *Finance Brokers Control Act 1975* and associated Regulations has recommended that the Act be repealed on the grounds that a less restrictive code of conduct would be just as effective in protecting consumers as the current arrangements and would reduce compliance costs for finance brokers. It was also noted that the Act duplicated provisions contained within the *Commonwealth Trade Practices Act 1974* and the *State Fair Trading Act 1987*.
- Recommended reform to the *Sandalwood Act 1929* will reduce the barriers to entering the sandalwood industry. In particular it will remove an arbitrary constraint on harvesting from private land while retaining restrictions relating to sustainable rates of harvest.
- The review of the *Hire-Purchase Act 1959* has recommended the repeal of most of the Act, which will remove the arduous reporting and documentation requirements imposed on providers of hire purchase and make the requirements in Western Australia more consistent with other jurisdictions.
- Significant changes recommended to the *Explosives and Dangerous Goods Act 1961* will replace the current, prescriptive licensing systems for the manufacture, handling and storage of these goods with more performance based standards.

For instance, the licensing requirement for the manufacture of explosives is to be aligned with existing performance based controls for other chemicals and the licensing restrictions on the storage of explosives are to be replaced by an accreditation system.

It is as important to ensure that restrictions which are in the public interest are retained as it is to ensure that restrictions which are not in the public interest are removed.

The following provides examples of the public interest basis for retaining restrictions on competition in some laws:

- public health and safety concerns supported restrictions in the *Boxing Control Act 1987*, *Government Railways Act 1904* and Port Authorities Bill;
- social welfare issues justified pensioner concessions in the *Rates and Charges (Rebates and Deferment) Act 1992*;
- environmental protection restrictions limiting development and commercial exploitation in the *Rottnest Island Authority Act 1987* and constraints on business activities in the *Environmental Protection Act 1986* were soundly based;
- consumer protection underpinned restrictions governing the handling and labelling requirements of the *Fertilizers Act 1977* and the licensing and warranty requirements of the *Motor Vehicle Dealers Act 1973*; and
- provision of public goods was the basis of compulsory producer levies in acts including the *Plant Pests and Diseases (Eradication Fund) Act 1974* and the *Poultry Industry (Trust Fund) Act 1948*.

2.4 Support Programs

The Competition Policy Unit (CPU) of WA Treasury continues to be very active, assisting those conducting the reviews or overseeing consultants who are undertaking the reviews.

In addition to establishing Western Australia's legislation review process, the Legislation Review Guidelines have been designed to provide a very practical step-by-step guide on how to conduct legislation reviews, background information on National Competition Policy and information on hiring consultants for legislation reviews.

To complement the Guidelines the CPU has conducted general introductory workshops for Departments on legislation review, and workshops and several presentations covering particular areas of legislation review. The success of the introductory workshops and the experience being gained by reviewers has meant that fewer of these are needed now than in previous years, allowing CPU to provide more specialised assistance.

Reviewers have good access to CPU staff. Significantly, CPU input is provided prior to the review being conducted so that timely advice is provided on process and procedures. This early involvement helps to ensure that the appropriate review process is adopted, thereby contributing to independence and balance in the conduct of reviews.

One of the more important roles CPU performs is a quality control function with regard to review reports. CPU thoroughly reviews and analyses all draft reviews and provides advice on the review and draft report. This is a key step which is very effective in achieving high quality reports. It also provides an independent check on the rigour of the review process and report.

CPU staff also participate on review panels for some of the major and potentially controversial reviews. The purpose of this is also to achieve a review process and report which are of high quality.

This support, coupled with the increased experience reviewers are gaining, has improved the quality of reviews and shortened the time taken to undertake reviews. This has led to an increased rate of review completion in 1998/99 and it is anticipated that the progress will continue to accelerate (as many of the new reviews will involve experienced reviewers).

2.5 Changes to Legislation Review Schedule

Western Australia's Legislation Review Table is necessarily dynamic. Acts have now been added to the Table as a consequence of an on-going search for acts which may restrict competition but have in the past been overlooked.

Some reviews have been deferred, for instance where there is a need to co-ordinate reviews involving interdependent legislation or to co-ordinate legislation review with the conduct of a related competitive neutrality review.

Deferrals have also been allowed for existing legislation where new legislation covering the same subject matter is being developed. Reviews of new legislation will be picked up through standard procedures and in the main will obviate the need to review existing legislation.

The number of deferrals granted recently has been reduced, as it has been assessed that a later start on some reviews could put at risk completion of all reviews and implementation of reforms by December 2000.

3. COMPETITIVE NEUTRALITY

The principle of competitive neutrality is an integral component of the State's policy of reforming its government owned businesses in order to achieve greater organisational and economic efficiency in Western Australia. This policy was outlined in the State's Policy Statement on Competitive Neutrality (June 1996) which also included an Implementation Schedule for Significant Business Activities.

Western Australia's program of competitive neutrality is well advanced and on track for completion before December 2000. Substantial progress has been made in Western Australia towards meeting the requirements of the policy on competitive neutrality in accord with clause 3 of the Competition Principles Agreement.

The State's biggest government businesses have already been made subject to competitive neutrality. For example, Western Power, AlintaGas and the Water Corporation have been fully corporatised. Collectively these agencies account for more than 80 per cent of business revenues earned by Government.

While the remaining agencies account for less than 20 per cent of government business revenues some minor public benefits could arise from the implementation of competitive neutrality in these areas. While the economic benefits of further reform may be small, issues of good public policy are at stake. For example the application of competitive neutrality to smaller (but significant) government businesses is symbolic of the Government's desire to act fairly where it is in competition or has the potential to be in competition with the private sector.

More recently, Western Australia has begun to focus its review effort on agencies with smaller business revenues deemed to be significant on the basis of criteria in the State's Policy Statement on Competitive Neutrality.

In Western Australia the significance of government business activity is determined by assessing the extent of competition (or the potential for competition) between the public and private sectors and the significance to the Western Australian economy of the market in which government business activity takes place. A government business activity is also unlikely to be significant unless its annual revenue base or turnover is more than \$10 million or it has an asset base with a value in excess of \$10 million.

3.1 Progress of Reviews and Implementation

Progress on reviews of most significant Government businesses

- Western Australia's most significant government businesses have been subject to competitive neutrality through the process of corporatisation. These agencies include the Electricity Corporation (Western Power), Gas Corporation (AlintaGas) and the Water Corporation.
- Competitive neutrality has been applied to Western Australia's **Port Authorities** (Albany Port Authority; Bunbury Port Authority; Dampier Port Authority; Esperance Port Authority; Fremantle Port Authority; Geraldton Port Authority; and Port Hedland Port Authority).

A competitive neutrality review of port authorities was completed in December 1997. Competitive neutrality reforms will be implemented with the passing of the Port Authorities Bill, which is currently before the Parliament. This Bill provides the statutory vehicle through which the port authorities are formally commercialised, in much the same way as Western Power, AlintaGas and the Water Corporation. The Bill has been reviewed in accordance with clause 5 of the CPA.

- A Ministerial review of **LandCorp** resulted in new legislation applying commercialisation principles to LandCorp. This has resulted in the removal of LandCorp's regulatory and policy functions; imposition of State taxes and local government rates through tax and rate equivalent payments; application of transparent community service obligation (CSO) payments; and establishment of an independent monitoring mechanism.
- The completion of the competitive neutrality review of the **Western Australian Treasury Corporation** (WATC) in February 1998 resulted in legislative amendments to implement competitive neutrality through commercialisation, while retaining the restriction that the WATC can service only State Government, semi-government and local authorities. The WATC's exemption from State duties and taxes and local government rates has been removed, and a requirement for the WATC to repatriate a required return on capital (dividend payment) to the Consolidated Fund has been imposed.
- The **Government Employees Superannuation Board's** competitive neutrality review was completed in February 1998 and has been endorsed by Cabinet. It was concluded that, under the current structure and funding arrangements for public sector superannuation, its administration and funds

management activities hold no competitive advantages or disadvantages that needed to be reviewed as part of the competitive neutrality review process. These findings need to be seen in the context of the GESB's role as an administrative board, rather than a significant business.

The Government has endorsed this finding and as a consequence competitive neutrality will not be applied to the Board's activities.

- **The East Perth Redevelopment Authority and the Subiaco Redevelopment Authority** reviews were completed in August 1997 and October 1997 respectively. Both reports recommended that the "status quo" be maintained, which requires that the authorities remained subject to a tax equivalent regime (TER) and a loan guarantee charge. It was assessed that no net public benefit would be derived by further subjecting the authorities to the principles of competitive neutrality.

In addition to the above, a number of specific competitive neutrality issues have been addressed across a number of government agencies. In this regard, all government business activities (whether in the general government or Public Trading Enterprise (PTE) sectors) are currently subject to a loan guarantee charge, which was introduced in 1992-93. The majority of PTEs (including Westrail, the port authorities and LandCorp) entered the TER on 1 July 1996. In addition, a dividend policy was introduced for the ports and Westrail in 1996-97, and since then Westrail has received funding from the Consolidated Fund for Community Service Obligations (CSOs) that it performs.

3.2 Progress on Other Reviews and Changes to Review Schedule

Competitive neutrality reviews of several medium-sized and smaller government enterprises are still under way and significant reforms can be expected to flow from a number of them. Attachment 4 outlines the status of the competitive neutrality reviews that are currently outstanding and the program for review over the next 18 months. Changes to the review schedule have also been made (Attachment 4)

Although the business activities of these agencies have been classified as being significant in accord with Western Australia's Policy Statement on Competitive Neutrality, their impact on the Western Australian economy is generally small. However it is in the interests of good policy to review these agencies to determine whether principles of competitive neutrality should be applied.

Several business activities have been added to the 1996 Implementation Schedule after the Premier requested that all Ministers examine their portfolios to determine whether there were any other government agencies that met the criteria specified in the Policy Statement. This step was considered necessary to ensure that any new government business activities were considered and that no significant business was overlooked in the reform process.

Attachment 4 outlines the additions to this schedule as a consequence of this follow-up work and other consequential changes (eg following announcements of privatisation).

3.3 Competitive Neutrality Complaints Mechanism

In October 1998, the Cabinet Government Management Standing Committee (GMC) endorsed the Competitive Neutrality Complaints Mechanism that deals with allegations of non-compliance by public sector agencies with competitive neutrality in Western Australia.

Responsibility for handling complaints lies with GMC. A Competitive Neutrality Complaints Secretariat (the Complaints Secretariat) situated within Treasury provides administrative support to the GMC.

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 is accepted the Complaints Secretariat will carry out consultation and investigation on behalf of the GMC. Once the investigation has concluded the Complaints Secretariat will report its findings to the GMC. The report will contain 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 GMC concurs with that recommendation, the Complaints Secretariat will advise the complainant in writing of this outcome. There is no appeal mechanism.
- Where the GMC concurs with a finding by the Complaints Secretariat that there is a breach of competitive neutrality then the GMC may determine that the competitive advantage should be removed.

The GMC 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.

Since the establishment of the competitive neutrality complaints mechanism, the Secretariat has processed one allegation of non-compliance. The Secretariat established that the complaint fell outside of the competitive neutrality complaints process and no further action was required. The complainant has not pursued the matter further.

Local government

Significant progress has been made in the application of competitive neutrality to local government business activities. By 31 March 1999, 136 of the 142 local governments had fully met their review commitments. Of these, 97 local governments found they had no significant business activities and therefore did not need to conduct reviews.

In total, 129 local government businesses have been reviewed with competitive neutrality being implemented in over half of these businesses.

Details of the reviews conducted and the reforms associated with the reviews are reported in the local government section of this report.

4. STRUCTURAL REFORM

The Western Australian Government's program of structural reform in accordance with Clause 4 of the Competition Principles Agreement is continuing. The reform is building upon the major reforms of the mid 1990s in electricity and rail and the 1998 gas pipeline sale. Western Australia's progress with structural reform is proceeding as part of a package with third party access arrangements being developed, application of competitive neutrality and corporatisation or privatisation.

4.1 Electricity

The Western Australian Government is currently focusing its attention on further opening up the electricity sector to competition by:

- undertaking a power procurement process for regional areas of Western Australia which promotes private sector competitive involvement and is aimed at lowering electricity prices in these regions;
- opening up access to Western Power's networks in regional areas of Western Australia to customers using more than 300,000 kWh/year; and
- implementing a phased reduction in access levels to Western Power's electricity distribution system in the South West Interconnected System and North West Interconnected System, with the threshold level reduced to 1 MW by 1 January 2000.

This builds upon a significant base of structural reform in the power industry which includes:

- the 1995 restructuring of the State Energy Commission into Western Power, Alinta Gas and the Office of Energy. Responsibility for regulation of the electricity supply industry now lies with the Office of Energy, eliminating the potential for Western Power to face conflicts of interest between service provision and industry regulation;
- determination of appropriate commercial objectives for Western Power in the context of its corporatisation with effect from 1 January 1995. These objectives ensure that Western Power cannot systematically undercut prices charged by potential competitors as a result of it having sub-commercial objectives;
- effectively ring fencing Western Power's activities through the *Electricity Corporation Act 1994* which requires it to report annually on a segmented basis comprising:
 - the generation of electricity;
 - the transmission of electricity;

- the interconnected distribution and sale of electricity in the State's south west;
- the Pilbara interconnected system; and
- the remote power systems;
- separate profit and loss accounts and balance sheets are to be prepared in respect of each of these segments;
- the access regimes put in place through the gazetting of the Electricity Transmission and Distribution Regulations, coupled with ring fencing arrangements, should prevent Western Power from taking advantage of its ownership of the transmission and distribution systems to the detriment of potential competitors;
- establishing from the outset in 1995 that the new entity, Western Power, be fully subjected to competitive neutrality so that it has no advantage through being Government owned; and
- establishing appropriate financial relationships between the Western Australian Government and Western Power, including:
 - a requirement for Western Power to pay tax equivalents to the Government that replicate Federal income and wholesale sales taxes;
 - a requirement for Western Power to be fully exposed to all State taxes;
 - a requirement for Western Power to pay dividends to the Government;
 - a requirement for Western Power to pay rate equivalents to the Government that replicate local government rates; and
 - the Government financing (through direct appropriation from the Consolidated Fund) the cost to Western Power of revenue foregone as a result of Western Power's community service obligation to provide a supply charge rebate to pensioners and seniors.

Losses incurred by Western Power on the sale of electricity to residential and small to medium sized business customers in regional locations outside of the interconnected system, due to the application of the Government's uniform tariff policy, have not been identified as a community service obligation. This policy is considered to be a condition of Western Power's exclusive distribution franchise in respect of these customer categories.

The pace of reform has been rapid and the Government will give further consideration to structural reform and related matters in the light of experience gained as the above stages are implemented.

4.2 Gas

The Western Australian Government is currently focusing its attention on opening up the gas industry to further competition by:

- committing to a process for the proposed sale of AlintaGas, and a Clause 4 structural reform review which will bring about further competition in the gas and electricity sectors;
- undertaking an Expressions of Interest process to provide for additional natural gas pipeline capacity between the North West and South West of the State; and
- having developed and submitted an access application to the National Competition Council for certification of Western Australia's gas access code and reaching an advanced stage in the drafting of an access arrangement under that code for AlintaGas' distribution system.

These reforms build on prior achievements, in particular the 1998 sale of AlintaGas' Dampier to Bunbury Natural Gas Pipeline. The privatisation of AlintaGas' transmission function represents a significant vertical disaggregation of its functions.

In view of the rapid pace of reform, the Government will give further consideration to structural reform and related matters in the light of experience gained as the above stages of reform are implemented.

4.3 Rail

On 30 July 1998, the Western Australian Government announced plans for the sale of the freight business of Westrail including rolling stock and the track network. However, the Government will retain ownership of the existing right-of-way land under the tracks. Prior to the announcement the Government commissioned an independent review of appropriate structural options to determine the best structure for a privatised Westrail.

The Government expects to pass legislation by 1 July 1999 to enable the sale to proceed.

The factors required to be reviewed under Clause 4 of the CPA have been considered with respect to Westrail, as part of a number of reviews over the past few years. The Rail Freight Sale Task Force is in the process of revisiting these findings to ensure the requirements of Clause 4 have been met.

Structural reforms already undertaken by the Government include:

- completely deregulating the freight transport market in Western Australia from 1 July 1995;
- implementation of financial reforms from 1 July 1996 that included:
 - Westrail entering the Government's income tax and wholesale sales tax equivalent regime;
 - the Government assuming responsibility for Westrail's unfunded superannuation liability;
 - the Government reimbursing Westrail for losses incurred on community service obligations (essentially Westrail's country passenger services) undertaken at the direction of Government; and
 - Westrail accelerating repayment of its General Loan Fund debt, with dividend payments to the Government to commence once this debt is fully extinguished;
- the enactment of the Government Railways (Access) Act 1998 on 30 November 1998 which, together with the Government Railways Access Code 1999, comprise a rail access regime covering the entire Westrail network. The Government has submitted this regime to the NCC seeking to have it certified as effective. Amendments will be made as appropriate to apply the regime to a private owner of the Westrail network; and
- the transfer (through the Rail Safety Act 1998 and the Government Railways (Access) Act 1998) of rail regulatory responsibilities from Westrail to the Department of Transport.

5. CONDUCT CODE COMPLIANCE

Following on from implementing the schedule version of the Competitive Conduct Code (the Code) through its enactment of the *Competition Policy Reform (Western Australia) Act 1996*, Western Australia has continued to meet its requirements to comply with the Conduct Code Agreement (the CCA):

- In accord with clause 2(1) of the CCA, Western Australia has identified and notified the Australian Competition and Consumer Commission (ACCC) of any statutory exceptions to the application of the Code which have been introduced by new Western Australian legislation.
- In accord with clause 2(3) of the CCA, Western Australia has identified and notified the ACCC of legislation which existed as of 11 April 1995 and sought statutory exception under the *Trade Practices Act* as in force at that date, but which under the new regime for statutory exceptions continues to provide exemption beyond 20 July 1998.

On 11 April 1995 Western Australia had one Act, the *North West Development (Woodside) Agreement Act 1979*, which contained statutory exceptions made in reliance on the Commonwealth *Trade Practices Act* as in force at that date, but which continue to be effective beyond 20 July 1998. These statutory exceptions are contained in subsections 42(a) and (b) of that Act and were implemented as part of the *North West Gas Development (Woodside) Amendment Act 1994*, which has been subject to a legislation review under clause 5 of the Competition Principles Agreement.

A further statutory exception was introduced into the *North West Development (Woodside) Agreement Act 1979* upon the enactment of the *North West Gas Development (Woodside) Agreement Amendment Act 1996* (the 1996 Amendment Act) on 15 July 1996. In accord with its commitment under clause 2(1) of the CCA, Western Australia notified the ACCC of this new statutory exception within 30 days of its enactment in the 1996 Amendment Act. The ACCC on 21 August 1996 acknowledged having received this notification.

Included in Attachment 2 is a brief summary of justification that this statutory exception satisfies the requirements of clause 5(5) of the Competition Principles Agreement.

6. ACCESS

The Government is committed to increasing the competitiveness of Western Australian business by encouraging access to services provided by significant infrastructure facilities. Significant progress has been made, including the recent enactment of the *Government Railways (Access) Act 1998*, the establishment of the Office of Gas Access Regulation in February 1999 (see Section 8.2) and further opening of access to Western Power's electricity transmission network.

6.1 Rail Access

Western Australia's Rail Access Regime is being developed in support of the Government's policy on competitive access to railway infrastructure and as part of the State's National Competition Policy obligations under clause 6 of the Competition Principles Agreement.

The Western Australia Rail Access Regime consists of a Code, the *Government Railways Access Code 1999*, and legislation, the *Government Railways (Access) Act 1998*, which gives legal force to the Code. The Code is subsidiary legislation that may be disallowed in whole or in part, but may not be amended by Parliament.

The *Government Railways (Access) Act 1998* received Royal Assent on 30 November 1998. The Act and Code were submitted to the National Competition Council for certification in February 1999.

The Western Australia Rail Access Regime will realise the benefits of on-rail competition to the major intrastate, as well as the interstate, government railways. Access to third party rail operators has been available on the interstate line since mid-1995 on the basis of commercially negotiated contracts between individual operators and the Western Australian Government Railways Commission (the Commission). The access regime will provide a uniform framework for the negotiation of access agreements, for both the interstate line and intrastate services.

The Act provides for the establishment of a Code governing the use of government railways for rail operations by persons other than the Commission, trading as Westrail. Should the Government decide to proceed with the sale of the Westrail freight business and associated track facilities, the Act and the Code will be amended to ensure that the new railway owner is also bound by the regime.

6.2 Energy Access

Access to Western Power's electricity transmission network is now open through the provisions of the *Electricity Corporation Act 1994*. A formal access regime, consistent with the Competition Principles Agreement, is also being developed.

The State is encouraging competition in the electricity generation market through co-generation arrangements and schemes allowing private generators to sell their excess capacity into the State grid, with substantial benefits to industry. Power generated by consumers (even down to the householder level) can be purchased by Western Power.

The State has in place a process for progressively opening access to the electricity distribution network, and since 1 July 1998 all customers with an average load of at least 5 MW at a single site have been able to choose their own supplier. From 1 January 2000 access will be extended to all customers with an average load of at least 1 MW (8760 MWhrs/yr) at a single site. An access regime is being developed for the distribution network.

In June 1998 the Western Australian Government announced a new policy for electricity supply in the 29 off-grid regional locations to bring more competition into the regional energy market. As of 1 January 1999 customers with electricity consumption above 300,000kWh annually have been able to choose their own supplier.

Western Australia is a signatory to the 1997 intergovernmental Natural Gas Pipelines Access Agreement, which commits the State to the application of the Gas Pipelines Access Law to all significant natural gas pipelines in Western Australia. The implementing legislation, passed by Parliament on 23 December 1998, establishes an Independent Gas Access Regulator, a Gas Review Board to hear appeals against the Regulator's decisions and an independent Gas Disputes Arbitrator.

7. LOCAL GOVERNMENT

Western Australia's local governments have been active in pursuing reforms through competitive neutrality reviews and the review of local laws to meet NCP obligations.

The Western Australian Government took the decision to devote a proportion of its Competition Payments to a Local Government Development Fund in the 1998/99 Budget, demonstrating its commitment to local government's implementation of NCP. The money is intended to provide an incentive for local governments to implement NCP and to enable them to share in the benefits of the reforms.

A total of \$4.3 million (4.1 per cent of the State's Competition Payments) is to be provided to local governments. The State Government's commitment is dependent on it receiving its Competition Payment and local government meeting its obligations.

7.1 Progress with Competitive Neutrality Reviews and Reforms

Reviews

Most of the competitive neutrality review requirements have been met. By 31 March 1999, 136 of the 142 local governments had fully met their review commitments. Of these, 97 local governments found they had no significant business activities and therefore did not need to conduct reviews.

In total, 129 local government businesses have been reviewed with competitive neutrality being implemented for 71 of these. Western Australia considers this a significant number of proposed implementations, particularly in view of the minor and isolated nature of many of these business activities. Competitive neutrality is only to be implemented for those activities where the benefits of doing so outweigh the costs.

A summary of reviews conducted is provided in Attachment 5. This shows the nature of the business activities reviewed, as well as review outcomes.

Reform

The reviews conducted have recommended reforms, with more than half of the 129 reviews completed recommending the implementation of competitive neutrality.

The most common method being adopted for implementing competitive neutrality is full cost pricing. In some cases, competitive neutrality will be established through the removal of competitive advantages and disadvantages and for a small number of activities, a commercialisation model will be adopted.

The types of local government businesses for which competitive neutrality is being implemented include waste collection and disposal services, regional airports, recreation centres, aged care centres, child-care centres and golf courses. The scale of these activities is small compared to activities in some other jurisdictions.

7.2 Local Law Review

Local governments have begun reviewing local laws that restrict competition. It is expected that efforts in local law review will increase over the next six months, with most reviews completed by the end of the year.

Most local governments have provided details of their review programs in their Annual Reports. Timetables are being sought from those who have not yet provided them. Progress against their timetables is being monitored to ensure that local governments will meet their obligation to review and where necessary reform restrictions on competition by 31 December 2000.

7.3 Leading and Supporting NCP

Treasury's Competition Policy Unit, together with the Department of Local Government, the Western Australian Municipal Association and the Institute for Municipal Management, has played a leading role in the coordination and support for local government's implementation of NCP.

The Competition Policy Unit has had a lead role explaining NCP obligations, monitoring progress, providing feedback on progress and helping to coordinate and minimise unnecessary duplications for Western Australia's local governments.

Guidelines on conducting competitive neutrality reviews have been produced and circulated to explain competitive neutrality concepts and provide a practical reference to enable local governments to undertake reviews. A series of examples of competitive neutrality reviews of local government businesses have been developed to provide case studies for the more common local government business activities.

Support for local law review is also being provided through guidelines specifically developed for this purpose; case study reviews of a number of generic local laws (as well as a town planning scheme); and a stock-take of three local governments' local laws to provide guidance to all local governments on which local laws are likely to restrict competition and how they restrict competition.

8. RELATED REFORMS

8.1 Progress on Electricity Reform

Western Australia continues to pursue ongoing electricity reform despite not being able to participate in the national electricity market. The significance to Western Australian industry and the wider economy of lower electricity costs, is clearly recognised by the Western Australian Government.

Western Australia is encouraging competition through access to the transmission and distribution systems, promotion of co-generation projects, and provision of privately generated power in regional areas as part of its commitment to microeconomic reform.

As indicated in section 4, the Western Australian Government has announced a new policy for electricity supply in regional areas, covering the 29 Western Power off-grid regional locations. The new policy will encourage competition in the energy market. The policy has seen a lowering of the open access threshold level in regional areas, with customers in these areas with electricity consumption above 300,000 kWh annually now able to choose their own supplier.

In addition to reducing the access threshold in regional areas, the Government is also undertaking a regional power procurement process for the supply of electricity to Western Power in its regional networks as part of the new policy. Initially, the process will cover the West Kimberley, Mid West and Esperance regions. The outcome of this process is expected to be a number of long term commercial contracts for the supply of electricity to Western Power. Successful bidders in this process will also be in a position to sell electricity generated from any spare capacity to third parties as a result of the new access arrangements in place for regional networks.

8.2 Progress on Gas Reform

As a signatory to the Natural Gas Pipelines Access Agreement, Western Australia agreed to implement legislation to apply the Gas Pipelines Access Law to natural gas transmission and distribution pipelines within the State. Consequently, the Gas Pipelines Access (Western Australia) Bill 1998 was introduced to Parliament on 18 June 1998 and passed by Parliament on 23 December 1998. The Act was proclaimed on 27 January 1999 and took effect from 9 February 1999.

The Act is complementary legislation applying the Gas Pipelines Access Law and establishing independent State bodies for regulation and arbitration of disputes. The Independent Regulator and Arbitrator are supported by a small new Government agency, the Office of Gas Access Regulation (OffGAR), which commenced operation on 9 February 1999.

Western Australia's existing access regimes covering the Dampier to Bunbury Natural Gas Pipeline (DBNGP), the Goldfields Gas Pipeline and AlintaGas' distribution network have been deemed to comply with the National Gas Access Code until 31 December 1999 by way of derogation. The owners of these pipelines must have access arrangements under the Code approved by 1 January 2000.

In the interests of industry stability and to ensure a smooth transition to open access, Western Australia has in place a staged deregulation schedule for AlintaGas' distribution system, culminating in full access to householder level by 1 July 2002.

While AlintaGas is currently restricted from participating in the Pilbara gas market, this restriction was necessary to restructure the previous gas supply contract between SECWA and the North West Shelf Joint Venture participants and thereby allow for the introduction of competition in the Pilbara region. AlintaGas' restriction from participating in the Pilbara gas market expires in 2005.

The Western Australian Government has advanced the expressions of interest process for the private sector to build a second pipeline from the Pilbara to the South West. In order to test the market for additional gas pipeline capacity to the South West, the Western Australian Government nationally advertised an indicative registration of interest process in September 1998.

Eleven companies lodged a registration of interest, but none indicated a willingness to proceed immediately with construction. This demonstrated that there is no restriction preventing the building of a second pipeline and that companies are not interested in proceeding now based on their commercial judgements.

Nevertheless, it was decided to invite selected firms to indicate their interest in participating in an expression of interest process. Three firms were selected according to the performance of their registration of interest against six selection criteria, which were aimed at determining which would be best placed to develop a second pipeline. By the due date, the three firms had confirmed their willingness to participate in the expression of interest process. The Western Australian Government will continue to work with these respondents.

For the purpose of further enhancing competition in gas transmission pipelines from the Pilbara to the South West, the Government is taking steps to widen the DBNGP corridor. A wider corridor will allow the construction of more gas transmission pipelines (with looping), which would then compete with the DBNGP.

Due to safety considerations, some sections of the existing DBNGP corridor needed widening before a second pipeline could be built. The *Dampier to Bunbury Pipeline Act 1997* allowed for the expansion of the pipeline corridor from 30m to 100m to enable further pipelines to be built, and the vesting of the land in the DBNGP Land Access Minister.

Action has commenced to implement this expansion, which will involve resuming the expanded corridor, resulting in considerable negotiation with existing property holders and the resolution of Native Title issues. Concentrating gas pipeline construction within a single corridor is considered necessary to minimise environmental disruption.

In December 1998, the Government announced its intention to privatise the distribution, trading and retail businesses of AlintaGas. When the sale is completed, the Government will no longer own any gas industry assets.

8.3 Progress on Road Transport Reform

Western Australia is expecting to meet its obligations on road transport reform. It has implemented a number of agreed national reforms including the heavy vehicle uniform registration charges and a number of elements of the heavy vehicle reform package. Proposed Western Australian legislation is consistent with the national reform agenda with respect to heavy vehicle registration, national driver licensing, vehicle operations/standards and driving hours.

The April 1995 COAG competition policy agreements provided general guidelines but established no specific assessment milestones. Consequently jurisdictions made an 'in-principle' agreement to accept the implementation schedules agreed by the Australian Transport Council (ATC), with the NCC acknowledging that changes by ATC or COAG to the schedule, agreed by ATC in February 1999, would need to be respected.

An evaluation framework was agreed by ATC on 4 December 1998 for progress to COAG and it is understood the Commonwealth forwarded that proposal (after some amendments directed by ATC) to the Chair of ATC in mid February for forwarding, through the Prime Minister, to heads of Government.

Western Australia's report on progress is made against that framework.

Heavy vehicle charges module

This module was implemented on 1 July 1996.

Transportation of dangerous goods by road module

The evaluation framework requires implementation of the dangerous goods by road module in Western Australia within four months of the relevant Act coming into effect.

The *Dangerous Goods (Transport) Act 1998*, assented to in December 1998, includes the national dangerous goods module. The associated regulations are expected to be proclaimed around April/May 1999.

These regulations will provide for a uniform approach to the transport of dangerous goods by both road and rail (as being sought by ATC) to achieve a harmonised national regulatory framework for the land transport of dangerous goods. In the interim, the technical aspects of the national road regulatory framework have been given effect by allowing transport operators to work to the new national dangerous goods code agreed by ATC.

Heavy vehicle registration module

The evaluation framework targets July 1999 for implementation of the heavy vehicle registration module in Western Australia, subject to the passage of necessary legislation by Parliament.

This module requires changes to be made to Western Australia's *Road Traffic Act 1974* to allow full implementation. Legislative priority has been requested to allow amendments to be passed in the autumn session of 1999. Associated regulations are planned to be progressed simultaneously.

In the interim, Western Australia has adopted the nationally agreed administrative guidelines wherever possible to establish consistency with national outcomes without waiting for legislative changes to be effected.

Western Australia is participating fully in the National Road Transport Commission implementation group which is managing the implementation requirements of the module.

Western Australia will also apply the national heavy vehicle regulations to light vehicles to promote consistency of approach in these regulations.

National driver licensing module

The evaluation framework targets July 1999 for the implementation of this module in Western Australia, subject to Parliament passing necessary legislative amendments.

While Western Australia is applying its existing legislation to maximise consistency with the agreed national outcomes, full implementation requires amendments to the *Road Traffic Act 1974* (in particular for the outcome areas of consistent national demerit points, uniform heavy vehicle licence classifications and photographic licences). The necessary changes to the Act have been endorsed by Cabinet.

Western Australia is participating in the NRTC-led implementation group to ensure implementation can be effected immediately after legislative changes are made. Legislative priority has been requested to allow amendments to be passed in the autumn session of 1999. It is intended that changes to associated regulations will be progressed simultaneously.

Vehicle operations module

This module initially comprised a wide range of specific elements, including a number which the evaluation framework (agreed by ATC for endorsement by COAG) has identified under separate headings (eg. vehicle standards, Australian road rules and driving hours).

The evaluation framework identifies the areas of mass and loading, oversize/overmass and restricted access vehicle regulations under the heading Vehicle Operations and targets the implementation of these in Western Australia for six months after Ministers approve the combined vehicle standards.

The implementation of these regulations does not require any Act amendment and can proceed by regulation. However, the structure of State regulations covering these and vehicle standards regulations is such that it would be inefficient and confusing to proceed piecemeal, and consequently changes should be undertaken simultaneously. With recent Ministerial agreement on the Combined Vehicle Standards, Western Australia expects to have the necessary regulatory changes in place by September 1999.

There has been little or no adverse impact on interstate operators resulting from the delay in reaching this agreement as existing Western Australian regulations are in accord with the national standards. For example, the national mass limits for axles and the abolition of individual permits for standard mass operations are part of the Western Australian regulatory system already.

Vehicle standards

The evaluation framework distinguishes between heavy and combined vehicle standards (the latter incorporating both heavy and light vehicles). The framework indicates that heavy vehicle standards are assessable for second tranche assessments by the NCC but not so for combined standards (as they had yet to be approved by Ministers).

Western Australia is in favour of the approval of the Combined Vehicle Standards to allow both heavy and light vehicle standard regulations, together with those outlined above, to be progressed simultaneously. The combined vehicle standards were first put to Ministers in late 1996 (although initially scheduled by the NRTC considerably earlier), but disallowed on a majority vote.

Western Australia now expects to effect necessary regulatory changes by September 1999. However, the delay in formalising these changes has had little or no impact on interstate transporters as existing Western Australian standards are substantially in harmony with those agreed nationally. Where national standards have provided greater freedom than existing State standards these have been provided for by permit and mutual recognition arrangements put in place for interstate vehicles.

Driving hours regulations

Based on recommendations from the NRTC to Ministers, Western Australia has been specifically excluded from implementing national driver hours regulations for truck drivers and will not be applying national regulations for bus drivers.

However, Western Australia has introduced a Code of Practice linked to Occupational Health and Safety Legislation to manage fatigue in the road transport industry. This will provide a more flexible and cost effective management system to meet the particular needs of remote areas and does not create difficulties for interstate transport operators.

8.4 Progress on Water Reforms

Western Australia is committed to the effective implementation of all COAG agreements on the strategic framework and future processes as endorsed at the February 1994 COAG meeting and embodied in the February 1995 Report of the expert group on asset valuation methods and cost-recovery definitions.

In line with this commitment significant reform has been undertaken, including:

- implementation of pricing reform based on the principles of consumption-based pricing, full-cost recovery, and removal of cross-subsidies, with remaining subsidies made transparent;
- adoption of two-part tariffs for urban water where cost effective;
- implementation of a comprehensive system of water allocations, including allocations for the environment, backed by separation of water property rights from land title;
- introduction of arrangements for trading in water allocations or entitlements; and
- structural separation of the roles of service provision from water resource management, standard setting and regulatory enforcement.

Cost Reform and Pricing in Urban Water

Full cost recovery

Western Australia's three major urban providers are the:

- Water Corporation;
- Aqwest (formerly Bunbury Water Board); and
- Busselton Water Board.

All the providers are implementing full cost recovery. The annual reports of these organisations transparently detail the costs (operating costs, dividends, tax equivalents, and community service obligations) that have been used to determine water prices.

In relation to the Water Corporation, CSOs are subject to Ministerial and Cabinet approval through the budget process and are considered on a project-by-project basis. In 1997-98 the Water Corporation, the State's largest service provider, received CSO payments for infill sewerage, rebates and concessions to pensioners, seniors, and various exempt bodies on annual service charges,

water consumption charges and other fees and charges in the metropolitan area.

In relation to externalities, Western Australia has in place environmental mechanisms through the Waters and Rivers Commission to ensure that environmental demands are met first, before water is allocated for consumptive use.

Consumption based pricing (two part tariffs)

Western Australia's urban water service providers have used two part tariffs for a number of years. A fixed component and a volumetric charge is levied on the amount of water used.

Consumption based pricing has also been in place for commercial and industrial customers in wastewater since 1995-96. Major commercial and industrial customers have two-part tariffs with a fixed component based on the size of the connection and a pay-for-use component calculated on metered wastewater volumes and composition. Minor commercial and industrial customers have a service charge calculated on the basis of the number of fixtures and a pay-for-use charge based on metered water consumption adjusted for an average percentage returned to the sewer.

Residential wastewater charges are based on gross rental values of property. It is not practical to implement a two-part tariff regime for domestic consumers as there exists no practical way to determine consumption. Arbitrary rules such as assuming that 'water out' is a fixed percentage of 'water in' for residential sewerage is not adequate because this ratio differs markedly between residential water users.

Removal of cross-subsidies

For a number of years the Water Corporation has been implementing tariff reform measures aimed at reducing the level of cross-subsidisation between business and residential customers and ensuring that tariffs better reflect cost of service provision.

Tariff restructuring has resulted in real water costs for a medium sized, commercial business falling by almost 50 per cent, or around 10 per cent per year from 1992-93 to 1997-98.

Transparent community service obligations

The major Western Australian urban water provider, the Water Corporation, has explicitly identified the cross subsidies that were provided in the urban area and are now provided in the form of transparent CSO payments from the Consolidated Fund.

The State Government's CSO policy facilitates competition and encourages performance improvements by ensuring that CSOs are provided by the organisations that can do so in the most commercial manner. The policy also ensures that the Government reviews each CSO and deems the benefits of the service to outweigh the costs of delivery.

CSOs currently include items such as:

- pensioner and Senior's card concession rebates;
- concessions to non-rated property owners, such as charities, religious and sporting bodies and homes for the aged; and
- the infill sewerage program.

The infill sewerage program was undertaken to deep sewer areas of Perth that had previously relied on septic tanks. These tanks were having a negative environmental impact and it was the Government's decision that, as the whole community would benefit from their removal, the cost should be incurred as a CSO rather than paid directly by residents.

Real rate of return

All urban water service providers are attaining a positive real rate of return on the written down replacement cost of their assets. In 1997/98 the Water Corporation achieved a rate of return of 4.4%, Aqwest 3.9%, and Busselton Water Board 5.6%.

For the Water Corporation the Minister for Water Resources and Treasurer have agreed to the adoption of a real target rate of return of 4% for assets created before 1 January 1996 and 6% for assets created since 1 January 1996.

Rural Water Supply and Irrigation Services

Progress on full cost recovery and transparent subsidies for rural water supply and irrigation services

Given the large geographic area and the relatively low level of available water sources, the cost of providing water services in the country is considerably greater than the cost in the Perth metropolitan area. Because of the Government's strong commitment to regional development it maintains a uniform tariff policy requiring the prices charged for country water services to be similar to those charged in Perth. The outcome of the high rural water supply costs and the uniform tariff policy is that there is Government subsidisation of rural water schemes.

In relation to rural water supply Western Australia has one service provider – the Water Corporation. The Water Corporation has identified all subsidised services and these subsidies have been converted to transparent CSOs. In 1997/98 this CSO cost \$135.7 million.

Compensation to the Water Corporation in the form of a CSO payment is calculated by comparing the revenue for each scheme with the long run avoidable costs. Calculations are made on a scheme by scheme basis and only loss-making rural schemes are included in the compensation claim. A listing of proposed, improved or new services is provided to the Minister for Water Resources to obtain his approval before changing the quality of existing CSOs or commencing new CSOs. Any changes are identified in the annual Strategic Development Plan (SDI) and Statement of Corporate Intent (SCI), both of which require the Treasurer's concurrence.

In relation to irrigation services Western Australia has four irrigation service providers:

- South West Irrigation Cooperative;
- Ord Irrigation Scheme;
- Preston Irrigation Scheme; and
- Carnarvon Irrigation Scheme.

These schemes purchase bulk water at less than full cost from the Water Corporation but charge full cost for the service of supplying bulk water to irrigation farmers. The Water Corporation receives a CSO for these schemes to cover the supplying of bulk water at less than full cost.

Independent appraisal processes to determine ecological sustainability and economic viability of rural schemes

In terms of environmental assessment, Western Australia's two environmental regulators, the Water and Rivers Commission and the Department of Environmental Protection, ensure environmental impact issues are dealt with prior to any new development or augmentation of an existing development.

Processes and procedures are yet to be put in place for the economic appraisal of proposals made by water service providers. However, any proposed developments that are not economically viable are scrutinised by the Minister for Water Resources and the Treasurer through the budget and annual SDP and SCI processes. If approval is given, the public provider is paid a transparent CSO from the Consolidated Fund.

Devolution of responsibility for irrigation areas to local bodies

Until 1994 each of the four irrigation schemes listed on the previous page was owned and operated by the Water Authority of Western Australia. In 1994 a decision was made to progressively increase the level of irrigator participation in the management and/or ownership of the schemes.

In the case of the South West Irrigation Scheme, operational responsibility was devolved to the interim committee of management. Responsibility for asset management and maintenance stayed with the Water Authority. The irrigators formed two Cooperatives, one to hold and maintain the assets, and one to undertake the management and operations of the irrigation services using those assets. The irrigation reticulation assets have been transferred to the Irrigator Cooperatives. Bulk water assets have been retained and are operated by the Water Corporation, which now supplies bulk water from its reservoirs to the Cooperatives.

In relation to the Ord River Irrigation Scheme, the Ord Irrigation Cooperative (a cooperative of irrigation farmers) has taken on the operation and maintenance of the Scheme under contract to the Water Authority. While this arrangement was in place, the irrigators and the Water Authority (and subsequently the Water Corporation) negotiated the conditions for the transfer of the irrigation distribution and reticulation assets to the irrigators. However, the transfer of assets to the Irrigation Cooperative has been delayed because of native title and environmental issues, and is now planned to occur in 2001.

Transfer of the Preston Irrigation Scheme to a farmer cooperative is at an advanced stage. Farmers have formed themselves into a cooperative and have obtained the necessary approvals and licences to run the scheme. By-laws giving the cooperative the powers necessary to run the scheme were authorised in January 1999 and the transfer of assets together with some refurbishment are almost complete.

The Carnarvon Scheme is a more complex arrangement than the other irrigation schemes, which makes its management more difficult. Water is drawn from borefields to provide a reticulated supply to farmers, many of whom have their own bores drawing from the same aquifer. The reticulated scheme acts as a supplementary supply for some farmers and is the sole supply for others who do not have direct access to the aquifer. The same borefields are the only water source for the town of Carnarvon. Of the four irrigation schemes in Western Australia this scheme has the most limited and fragile water resource, with careful management being essential to avoid further long-term damage (salt-water intrusion) to the ground water supply.

These complexities mean that the Carnarvon Irrigation Scheme requires a more comprehensive solution to future scheme management and will take some time to complete. The Water Corporation has established a joint management Board for the Scheme. The Chair of the Board is a member of the Water Corporation's Board. It has a majority of farmer members and also a representative from the town of Carnarvon.

Institutional Reform

Institutional role separation

In January 1995 the State Government appointed a Water Industry Restructure Implementation Group (WIRIG) to inquire into the operations and financing of the Western Australian Water Authority and the separation of policy and regulatory functions from the commercial functions of the Authority.

WIRIG developed recommendations and prepared draft legislation for a comprehensive overhaul of the water industry. WIRIG's efforts resulted in the formation of three new agencies on 1 January 1996. The Water Corporation took over the commercial functions of the Water Authority. The Water and Rivers Commission brought together a range of functions, previously conducted in four separate agencies, for the management and protection of the ground and surface water resources of the State. A third agency, the Office of Water Regulation, was created as a licensing authority for water services and to be a source of policy advice on the economic performance of the water industry.

Commercial focus of metropolitan service providers

The Water Corporation, the State's largest service provider was corporatised in 1996. The agency has an arm's length relationship between itself and the Minister for Water Resources through the constitution of an independent board of directors. The board takes responsibility for all aspects of the agency's operations, while the agency's strategic direction is negotiated between the board, the Minister and the Treasurer.

Key features of the corporatisation model as it applies to Water Corporation include:

- a principal commercial objective (namely, to endeavour to make a profit consistent with maximising the Water Corporation's long term value). The cost of community service obligations, which the Government directs Water Corporation to undertake, is met from the Consolidated Fund to ensure this objective is not compromised;
- the Water Corporation's board and executive management are responsible for its day to day operation. The Government has input into the strategic direction of the agency through the annual negotiation of its statement of corporate intent and strategic development plan between the board, the Minister for Water Resources and the Treasurer. The Minister for Water Resources has the power to direct the agency to carry out activities - these directions must be tabled in parliament and published in the agency's annual report;
- the performance of the Water Corporation is monitored on a quarterly basis by the Office of Water Regulation (service standards) and Treasury (financial performance); and
- the Water Corporation is exposed to competitive neutrality (full Commonwealth and state taxes or tax equivalents, debt guarantee fees, regulatory neutrality with private sector such as regulations relating to the protection of the environment and planning and approval processes).

The other water service providers, namely Aqwest and Busselton Water Board, are not corporatised entities. Corporatisation was not seen as a cost-effective means of achieving competitive neutrality for these smaller agencies.

These agencies have been required to undertake a competitive neutrality review to assess whether they enjoy any net competitive advantages (or disadvantages) as a consequence of their government ownership. If they are found to have a competitive advantage (or disadvantage) and it is not demonstrably in the public interest for it to be retained, then the competitive advantage (or disadvantage) will be removed. The competitive neutrality review for each of these organisations is currently being finalised.

Allocation and Trading

System of water entitlements

Western Australia is undertaking major legislative reform to define water rights in a framework that allows trading of rights, protects the environment and ensures consultation with the community.

The Water and Rivers Commission is charged with administering the comprehensive system of water entitlements. The Commission is a single purpose natural resource management agency.

The Water and Rivers Commission is currently consulting over amending legislation it is proposing to introduce in June 1999. The amending legislation will allow local resource management rules to be framed to protect the economic, social and environmental values of the community.

The legislative reform will establish a statutory planning and policy framework that will require plans to:

- be approved by the Minister;
- be prepared under a statutory process that guarantees community review; and
- set the sustainable yield that may be taken within the environmental limits.

The rights and responsibilities relating to waters and the environment are set out in the *Rights in Water and Irrigation Act 1914* and the *Environmental Protection Act 1986*. The *Rights in Water and Irrigation Act 1914* (which is subject to the *Environmental Protection Act 1986*) is currently being amended to include statutory processes for the setting of environmental limits and the allocation of water.

The objects of the Act will require the Water and Rivers Commission to provide water for the environmental systems that depend on watercourse and groundwater systems. Environmental water requirements are defined and removed from the water available for allocation prior to allocation reaching levels that could damage the environment.

In August 1997 the Water and Rivers Commission embarked on a multistage consultation program (setting the principles, amending the law, implementing the changes) to amend the *Rights in Water and Irrigation Act 1914* and accomplish the allocation reforms.

The publication *Draft Environmental Water Provisions Policy For Western Australia* describes the methodology the Commission intends to use to balance the productive use of water with protecting water-dependent ecosystems. The policy statement explains the way the Commission will decide how much water should be made available to the environment when making decisions about sharing (allocating the rights to use) water in Western Australia. The statement describes the guiding principles to be followed when making such decisions and outlines a water allocation planning framework in which they are to be applied.

The allocation framework for natural water resources is consistent across the State. Common principles of allocation, trading and environmental protection will apply but local communities will have the opportunity, subject to the direction of the Water and Rivers Commission, to modify and circumscribe the statutory provisions to suit their own circumstances.

Trading in water entitlements

Under proposed amendments to the *Rights in Water and Irrigation Act 1914* licences to take water will be transferable. Rights that can sensibly be traded, that is licence allocations to take water from fully allocated natural resources, can be traded under rules developed in consultation with the community. The legislation will allow the social and environmental elements of water use to be enhanced.

The legislative power to transfer licences will not be available until later in 1999. In the interim water licence holders in fully allocated areas will be allowed to surrender their licences on the condition that replacement licences are issued to nominated parties. The Water and Rivers Commission will administer this defacto transfer scheme, which is possible under the existing legislation because the environmental water requirements are formally set under the *Environmental Protection Act 1986*.

The private South West Irrigation Cooperative which owns and operates the irrigation water distribution works in the Harvey, Collie and Waroona Irrigation Districts has established tradeable rights systems. Leasing of water entitlements has been in place since 1996 and permanent sale of shares was implemented in 1998.

Cross border trading is not possible. In the future water may be traded across the Western Australia – Northern Territory border if the Ord irrigation project is expanded into the Northern Territory. As the irrigation district that spans the border will be under common management the pricing and allocation rules for water traders will be identical, resulting in no restriction to trade.

Environmental water provision

Western Australia has established and maintained a balance between water uses and environmental water needs with no rivers or groundwater systems being stressed due to excessive allocation of water rights.

Seven rivers or river systems are regulated and five of these have environmental water provision determined at the regional level. Forty four groundwater systems are actively managed and twenty six of these have regional, subregional or management area environmental water provisions set or in preparation.

Where significant environmental damage may result from the Commission's allocation policies, the allocation of water is also subject to formal review under the *Environmental Protection Act 1986*. This process results in external and public review of the policy proposals and the setting of legally binding environmental criteria. As a result of this ongoing attention to protection of the environmental water requirement of water resource systems Western Australia has no river systems that are stressed as a result of the over allocation of water uses.

Environment and Water Quality

Integrated Resource Management Practices

Over the past three years, the State has been progressively implementing arrangements and actions to ensure that natural resource management is delivered in an integrated and coordinated manner that fully involves community groups, based on formal partnerships.

Integrated structures across government from the State to the regional level ensure coordination of State Government agency activities. Linkages and collaboration with the community have also been established at all levels. Legislative arrangements are continuing to evolve, especially in the area of water resources, but mechanisms are in place to ensure that agencies work cooperatively to identify and use the most appropriate legislative powers.

The State has recently released a draft Natural Resources Management (NRM) policy for Western Australia, with the following vision:

“To optimise sustainable management of the State’s natural resources through efficient and effective partnership between all levels of government and the community.”

The outcomes envisaged through implementation of the policy include:

- community ownership, commitment and involvement in natural resource management;
- improved partnership and understanding between Government and the community, of the roles, responsibilities and accountabilities to achieve sustainable natural resource management;
- better policy, priority setting and delivery on the ground due to a clearer sense of direction through regional strategies and partnership agreements;
- more effective allocation of limited resources through improved coordination between Government and community groups;
- stronger and improved coordination with State and regional planning, development and management at scales that are strongly related to natural systems; and
- greater coordination and efficiency of government agency initiatives and inputs.

When finalised, the policy will continue to guide the direction of NRM in Western Australia to achieve these outcomes which are consistent with the COAG requirements.

The document *Integrated Resource Management in Western Australia* outlines the State’s compliance with the specific COAG requirements related to environment and water quality.

National Water Quality Management Strategy

Western Australia has made significant progress in the development and implementation of the National Water Quality Management Strategy (NWQMS).

Western Australia has actively participated in and supported the development of the NWQMS since the early 1990s. The State has contributed to the development of the NWQMS policies and guidelines, and through representation on the Agricultural and Resource Management Council of Australia and New Zealand (ARMCANZ), Australian and New Zealand Environment and Conservation Council (ANZECC), and National Health and Medical Research Council (NHMRC).

A State Water Quality Management Strategy (SWQMS) which gives effect to the NWQMS is being progressively developed and implemented in Western Australia. This strategy has established a water quality management objective and a number of guiding principles and strategies based on sustainable development, the cornerstone of the NWQMS.

An action plan has also been prepared that requires the preparation of a State Water Quality Implementation Plan that will provide clear water quality management priorities and targets.

An implementation framework has been developed for the SWQMS that will put into place an administrative structure for water quality management. It facilitates the integration and continual improvement of water quality management processes conducted by Government agencies.

The production of the Jandakot Groundwater Protection Policy is a prime example of the integrated approach across Government. This Statement is the first to be jointly developed and endorsed by the Western Australian Planning Commission, the Environmental Protection Authority and the Water and Rivers Commission.

Another significant area where major changes are occurring is in the development of State water quality protection guidelines. The aim is to produce single "whole of Government" guidelines. This approach also provides stakeholders with a single document, which sets out the regulatory framework for protecting a public drinking water source and significant environmental features.

There has traditionally been a strong emphasis on the use of regulatory measures such as statutory policies to protect groundwater public water supplies and land use controls. This has been achieved through the planning approval process and conditions placed on existing and proposed sources of contamination through the environmental impact assessment and pollution control processes.

There has also been a marked increase in the development of other measures to complement the regulatory approach. Market-based approaches to waste management that have been introduced include:

- cost incentive measures that support recycling of waste materials and environmentally safe methods of waste disposal;
- a water discharge licensing system with a fee structure that will reward best management practices. Western Australia was the second State to introduce such a system;
- an incentive scheme which provides compensation for not being able to clear land to prevent salinisation;
- encouraging owners of degraded land to grow plantations to establish an economic use for land which is in keeping with water quality protection objectives; and
- a tiered user pays system that encourages efficient water consumption and reduces the volume of contaminated water discharges.

An extensive water quality monitoring program is in place in Western Australia. This program includes the collection of water quality data through:

- regional hydrological monitoring;
- detailed monitoring of public water supplies;
- monitoring campaigns in areas subject to significant contamination; and
- self-management and compliance monitoring by facilities that are significant or potentially significant sources of contamination.

It is recognised that good water quality is dependent on appropriate land uses and practices within river catchments. Catchment management plans are prepared to address land practices that may threaten or have led to the degradation of environmental values and beneficial uses of water resources. Integrated catchment management is widely encouraged through the catchment management planning process in Western Australia. Examples are:

- State release of the draft Natural Resources Management Policy for Western Australia;

- the State Salinity Action Plan released by the Western Australian Government in 1996; and
- Waterways WA the first comprehensive statewide waterways management policy.

The implementation of the NWQMS Urban Stormwater Management and Sewerage System and Effluent Management guidelines is at an advanced stage in Western Australia. The Urban Stormwater Management guidelines are applied through the preparation of stormwater management plans, contaminated site cleanup and the Stormwater Design manual.

The Sewerage System and Effluent Management Guidelines are given effect through State industrial waste by-laws, the Biosolids 2040 Strategy Report, studies, policies and agreements for effluent and biosolids re-use, and education of trade waste operators and stakeholders. In addition, the implementation of the guidelines has led to upgrading wastewater pumping stations and comprehensive monitoring of wastewater overflows.

Innovative methods for sewage disposal are also being developed to reduce the impacts on waterways and estuaries in Western Australia. For example, sewage effluent is used to irrigate a tree farm at Albany rather than discharging to the local creek system, as was previously the case.

The consultative negotiating systems are based on fostering a team approach with State Government agencies, local government and key industry and community councils. Consultation is now a major component in setting water quality objectives in Western Australia. For example, public consultation has been a major component in compiling the overview document on environmental values for the Busselton - Walpole Region.

The development of the Jandakot Policy included major community consultation. It focussed a wide range of community stakeholders, legislators, Government policy officers and politicians on the issue of protecting water quality.

Public Consultation and Education

Waters and Rivers Commission is the lead agency for public consultation and education, in so far as it mainly relates to trade in water entitlements.

Consultation on pricing for full cost recovery has occurred with respect to the major providers but not with the public in general. The Office of Water Regulation has given evidence to two parliamentary committees (the Public Accounts and Expenditure Review Committee and the Standing Committee on Uniform Legislation and Intergovernmental Agreements) on matters related to these issues.

Public consultation has also occurred on the separation of the industry in 1995, and on the NCP legislation reviews.

A Western Australian Water Education Steering Committee has been established to coordinate agency and service provider publication and information services.

School curriculum material has been developed on water resources including:

- TAFE Water Resource studies;
- working scientifically with Ribbons of Blue;
- Swan River Education Kit;
- Waterwise Schools Program;
- Water Facts pamphlet series; and
- Groundwater series of videos on metropolitan and rural groundwater management.

Education materials and services related to water services and reform include:

- two volumes of water law and reform conference and research papers published by UWA Press;
- Water Industry Reform Implementation Group education and consultation process;
- allocation and trading reform proposals, reports, newsletters and consultation;
- National Task Force publications on reform;
- the ombudsman role of the Office of Water Regulation;
- web sites of the Office of Water Regulation and Water and Rivers Commission; and
- process and customer service charters of service providers.

ATTACHMENT 1:

**Summary of Legislation Reviews
of
Existing Legislation**

Attachment 1(A):

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

ABORIGINAL AFFAIRS PLANNING AUTHORITY ACT 1972 AND REGULATIONS

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Due to the minor nature of the restriction on competition, consultation was considered unnecessary.

Composition of Review Body: Agency committee, with input from the Ministry of Maori Development, New Zealand; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following minor restrictions for the same reasons outlined below:

Restriction 1: *Access to Aboriginal lands is restricted.*

Restriction 2: *Provision of finance for Aboriginal enterprises which enables finance to be provided to Aboriginal enterprises through the Aboriginal Trading Fund, which may have competitive advantages over private sector lenders.*

Both restrictions protect the residents of Aboriginal Lands and enable support for Aboriginal enterprises that could reduce reliance on welfare and other transfer payments. The costs are estimated to be minimal, but achieve significant public benefits.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

ABORIGINAL COMMUNITIES ACT 1979 AND BY-LAWS.

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Due to the minor nature of the restriction on competition, consultation was considered unnecessary.

Composition of Review Body: Agency committee, with input from the Ministry of Maori Development, New Zealand; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The Act empowers a community to which it applies to make by-laws relating to the community lands of that community for or with respect to:

- *the prohibition or regulation of the admission of persons, vehicles and animals to the community lands or a part of the community lands; and*
- *the prohibition, restriction or regulation of the possession, use or supply of alcoholic liquor or deleterious substances.*

The review concluded that it is in the public interest to retain the powers of the communities to regulate access and the availability of deleterious substances on the grounds of public health and cultural preservation. The costs were estimated to be minimal.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

ABORIGINAL HERITAGE ACT AND REGULATIONS 1974

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Due to the minor nature of the restriction on competition, consultation was considered unnecessary.

Composition of Review Body: Agency committee, with input from the Ministry of Maori Development, New Zealand; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: Access to Aboriginal lands containing protected sites is restricted.

The restriction protects the cultural heritage of the State and ensures that sites of historical and cultural significance are not damaged or destroyed.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

ADMINISTRATION ACT 1903

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended:

1. Broadening the range of financial institutions covered by a provision that grants them protection to pay funds from a deceased estate, up to a maximum amount, for funeral or other authorised purposes prior to administration of the estate.
2. Making this maximum amount consistent with corresponding provisions of the *Financial Institutions Code (WA)*.

Implementation: The recommended amendment to the Act and new regulation are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The Act treats natural persons differently from other classes of administrators of intestate estates as regards a requirement to obtain surety.

This restriction is retained because it has no costs but provides benefits by placing natural person administrators on a level playing field with other classes of administrators. It does so because others administrators are already subject to similar safeguards to protect deceased estates, by other means.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

ANGLO-PERSIAN OIL COMPANY LIMITED (PRIVATE) ACT 1919
BRITISH IMPERIAL OIL COMPANY LIMITED (PRIVATE) ACT 1925
COMMONWEALTH OIL REFINERIES LIMITED (PRIVATE) ACT 1940
SOUTH FREMANTLE OIL INSTALLATIONS PIPE LINE ACT 1948
TEXAS COMPANY (AUSTRALASIA) LIMITED (PRIVATE) ACT 1928

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The Acts define the relationships, rights and duties of oil companies, local government authorities and the Minister for Works in relation to the construction, operation and maintenance of pipelines on public lands. These duties and powers of the State and local governments constitute restrictions on the commercial activities of the oil companies.

It was assessed that the restrictions do not impose significant costs on the oil companies. Nor do any differences between the Acts impose cost advantages or disadvantages on particular oil companies that are of sufficient magnitude to affect competition between the companies. The public benefits of these restrictions were assessed to be minor cost savings in management of municipal infrastructure; minimisation of public inconvenience during construction and maintenance activities; and ensuring proper restoration of municipal infrastructure where this has been disturbed by works of the oil companies.

In view of the potential public benefits arising from the provision of the Acts, and the absence of significant costs or effects on competition, it was concluded that the restrictions arising from the legislation are either in the public interest due to current or potential future benefits, or have no current or potential future impact.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

BETTING CONTROL ACT 1954 AND REGULATIONS TOTALISATOR AGENCY BOARD (BETTING) ACT 1960 AND REGULATIONS

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Invitations to make submissions to the review were made by written advice to persons and organisations with a known interest in the betting and gambling industries. A public advertisement was also placed in The West Australian and the Sunday Times newspapers.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended:

1. Removing restrictions on individuals or organisations that can undertake betting activities.
2. Reducing costs on individuals or organisations engaged in betting activities.
3. Improving competitive neutrality between businesses engaged in different forms of betting, and between the betting industry and other gambling industries.
4. Removing commercial constraints on the TAB.

Implementation: The recommended amendment to the Act and new regulation are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restrictions for reasons outlined below:

Restriction 1: *A person must hold a current bookmaker's licence to act as a bookmaker.*

Given the nature of the betting industry and the opportunities that exist for corrupt and dishonest operators, an effective system for licensing bookmakers is judged to be essential in regulating activities and avoiding adverse effects on the racing industry, punters and the wider community.

Restriction 2: *Bookmaking activities may generally only be carried on at racecourses or registered places of sporting events, and in areas of such premises specifically set aside for bookmaking purposes.*

Restrictions on the locations of bookmakers activities were assessed as providing substantial benefits through reduced costs of monitoring bookmaking activities and reducing adverse impacts in the community from off-course betting and access to credit betting. Despite the potentially substantial costs imposed on bookmakers from reduced business opportunities, it was considered that the restriction on locations at which bookmaking may occur provides a net public benefit.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

BOXING CONTROL ACT 1987 AND REGULATIONS

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: Registration of boxers, trainers, promoters, and judges. This restriction limits who can practice as a boxer, promoter or manager of boxers and ensures that the health of boxers is satisfactory.

The restriction may reduce the number of participants involved in the sport, earnings from the sport and spectator numbers. However benefits associated with this regulation include improved boxer health and lower mortality, reduced health care costs, fewer resources used in litigation over claims of fraud, decline in costs for promoters. On balance, the restriction is considered to be in the public interest.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

BREAD ACT 1982 AND REGULATIONS

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited from interested parties through advertisements in *The West Australian* newspaper on 11 and 15 April 1998.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended repeal of the entire act including:

1. Licensing of bakehouses cease.

Anyone wishing to operate a bakehouse, must have a licence for that bakehouse.

2. Restrictions on delivery time for bread be removed.

The Act makes it an offence for a person to deliver, authorise, permit or accept the delivery of bread for sale at anytime other than between 4am and 6pm Monday to Saturday or 5am and 9am on Sunday. The Minister is empowered to authorise changes to these times where they see fit.

3. Requirements for marking vehicles used for delivering bread be discontinued.

The Act requires vehicles used to deliver bread for sale to be plainly, conspicuously and permanently marked as prescribed.

Implementation: The recommended repeal of the Act is being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: No restrictions retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

BUSH FIRES ACT 1954 AND REGULATIONS

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Due to the minor nature of restrictions, it was felt that consultation was unnecessary.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that Government businesses be subject to fire control requirements.

Implementation: The recommended amendment to the Act is being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction 1: Restriction on the lighting of fires and the requirement to maintain fire breaks. This restriction regulates the lighting of fires and requires the maintenance of fire breaks.

This is a very minor restriction on competition. Bush fires can be extremely costly to society, destroying both life and property. This restriction is clearly in the public interest as it reduces the likelihood of fires.

Restriction 2: Requirements on local governments. Local government is required to provide firefighting equipment and insure voluntary firefighters.

Firefighting equipment is essential in combating bush fires and protecting the community. The extremely high potential cost of fire damage means local governments must be prepared. Volunteer firefighters are also essential in protecting communities from bush fires and therefore it is in the public interest for government to provide insurance to those who voluntarily risk their lives to protect the community.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

BUSINESS FRANCHISE (TOBACCO) ACT 1975

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Due to the minor nature of restrictions, it was felt that consultation was unnecessary.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: A licence is required by any person wholesaling tobacco or purchasing tobacco for retailing from someone who is not a licensed wholesaler unless purchase is exempt.

Although this licensing regime restricts competition in the tobacco wholesaling industry and by doing so keeps prices artificially inflated, it thereby reduces consumption, and was found to be in the public interest on public health grounds.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

**CARNARVON BANANA INDUSTRY (COMPENSATION TRUST FUND)
ACT 1961**

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Minor consultation was carried out in light of the trivial nature of the restrictions including interviews with an agricultural insurance broker and a representative from the Horticultural Produce Commission.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended repeal of the entire Act.

Implementation: The recommended repeal of the Act is being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: No restrictions retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

CATTLE INDUSTRY COMPENSATION ACT 1961

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for public comment: Consultation has been adequate given the minor nature of the restriction contained in the Act. Interviews were conducted with key stakeholders including the Chief Veterinary Officer, the Western Australian Farmers Federation and the Pastoralists and Graziers Association.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the Act be amended to ensure that compensation is only paid for animals destroyed as a result of a control program which is of a “sufficiently public good nature” and that the Government’s contribution reflects the benefits that accrue to the wider community. A situation in which there are benefits to the wider community could be for example, when a stock disease threatens the human population.

The report also recommends that the Act be repealed pending the enactment of the Agricultural Produce Commission Bill which would include the restrictions currently contained in this Act.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial restrictions: The review recommended retention of the following non-trivial restrictions with minor modifications for reasons outlined below:

Restriction 1: *Powers to nominated persons to inspect and destroy cattle for the purposes of disease control.*

Restriction 2: *Provision to raise a levy on the sale of cattle.*

The Government has a role in facilitating the control of pests and diseases in the cattle industry.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

CHICKEN MEAT INDUSTRY ACT 1977

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were called in the West Australian in July 1996. Nine submissions were received. A public meeting conducted on Friday August 23 1996 for interested parties and 49 attendees made up of 43 growers, 1 fast food operator, 2 processors, 2 input suppliers and 1 government official.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury

Major Reform Outcomes: The review recommended:

1. Alter the powers of the Chicken Meat Industry Committee to allow individual negotiations of grower contracts where growers wish to opt out of the collective bargaining arrangements.
2. Remove restrictions on entry to the growing and the processing sector.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The Act gives the Chicken Meat Industry Committee powers to set a fee to apply to a contract between chicken growers and processors.

The right to collective bargaining is to be retained but is to be reviewed in five years. This restriction is retained because it was considered that moving immediately to a free market situation would have been disruptive and lead to growers being vulnerable to the stronger market position of the two processing companies. However while the collective arrangements would be retained they would also become voluntary.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

DAIRY INDUSTRY ACT 1973

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: The review was widely advertised in December 1998 (*Countryman and Farm Weekly*) and in the *West Australian* in February 1998. Submissions were taken from a number of industry and consumer representatives. The reviewers also had input from an industry working party consisting of representatives from the Western Australian Farmers Federation, the Dairy Industry Authority and the Dairy Program Partnership Group of Agriculture Western Australia.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial restrictions: The review recommended the retention of the following non-trivial restrictions for reasons outlined below:

Restriction 1: *The regulation of farm gate milk prices.*

The regulation of farm milk price is justified on the grounds that it corrects an imbalance in market power which is accentuated in Western Australia by the lack of competition in processing and retailing.

Restriction 2: *The vesting of all milk in the Dairy Industry Authority.*

The vesting of milk is justified on the grounds that it is a means for achieving regulation and provides a secure payment system and ensures that milk companies do not under state the volumes used as market milk.

Restriction 3: *The licensing powers of the Dairy Industry Authority.*

Licensing powers provide a public benefit on the grounds of ensuring health and quality standards are maintained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

DRIED FRUITS ACT 1947

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Interviews or comments were conducted or received with a number of stakeholders which were from or represented: The Dried Fruits Board; Growers; Agriculture Western Australia; Swan Settlers Packing House; Australian Dried Fruits Association; Department of Primary Industry (Com); Crown Solicitors Office; WA Health Department; Ministry of Fair Trading; and Victorian Dept of Natural Resources and Environment.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended repeal of the entire Act.

Implementation: The recommended repeal of the Act is being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: No restrictions retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

EAST PERTH REDEVELOPMENT ACT 1991 AND REGULATIONS

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions received from a Ministerial review of the legislation were used for the competition policy review. The Ministerial review involved consultation with all interested parties including State and local government bodies and peak bodies representing land developers, real estate agents and urban developers.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The Authority has exclusive powers to control the area for redevelopment and for compulsory acquisition of land. The Authority receives subdivision approval from Minister rather than the WA Planning Commission.

The powers of the Authority restrict competition by overriding the operation of the free market. Yet without this intervention the private sector would not clean up the existing environmental problems and achieve redevelopment in line with the community vision for this area. The restriction is retained in the public interest because the benefits of the cleaner environment were considered greater than the minor negative impact on the economy.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

EASTERN GOLDFIELDS TRANSPORT BOARD ACT 1984 AND REGULATIONS

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Nil, given that the public transport services are being contracted out to the private sector, and the relative minor nature of the issues.

Composition of Review Body: The Eastern Goldfields Transport Board members, which are considered representative of major stakeholders including the wider community, local government and the State Government; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended removal of competitive advantages conferred on the Board including its right to the status, immunities and privileges of the Crown, an exemption from some legislation and an implied government guarantee on borrowings.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: No notable non-trivial restrictions retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

ELECTRICITY ACT 1945

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Representatives of the Chamber of Commerce and Industry of Western Australia, the Office of Energy, Western Power and AlintaGas were interviewed to obtain their views.

Composition of Review Body: Independent consultant; intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended removal of Western Power's exemption from seeking the Coordinator's approval to supply electricity to the public.

Implementation: The recommended amendment to the Act and new regulation are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction 1: *Regulations concerning mandated supply.*

This restriction was retained because the public benefit of controlling the standards of electricity supply to the public (price and safety) and ensuring continuity of supply of an essential service to small use customers exceeds the costs of these minor restrictions.

Restriction 2: *Coordinator determines interconnection prices.*

This restriction was retained because the benefits of regulatory control over pricing in a monopoly environment outweigh the costs of administration and compliance.

Restriction 3: *Restriction on sale/hire of non-approved electrical appliances.*

The restriction was retained because the public benefit arising from the imposition of safety standards outweigh the possible cost involved in restricting consumer choice and the unavailability of cheap but potentially dangerous appliances.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

ELECTRICITY CORPORATION ACT 1994

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Representatives of the Chamber of Commerce and Industry of Western Australia, the Office of Energy, Western Power and AlintaGas were interviewed to obtain their views.

Composition of Review Body: Independent consultants conducted the review; intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended the following restrictions be removed or amended as indicated:

1. Exclusive franchise of Western Power.

The exclusive franchise of Western Power with respect to line capacity below 66kV and for users with an average load (at a single metered site) of less than 5MW protects its monopoly by preventing competition for small consumers such as householders.

The timetable for third party access and contestability has been accelerated as the public benefits of permitting competition in electricity supply to commercial customers are considered to exceed the costs of possible loss of Western Power's market share. From 1 January 2000, choice of supplier will be available to all customers consuming an average load of more than 1 MW at a single metered site (medium to large businesses).

2. Barrier to entry to generate electricity.

The requirement on Western Power to procure new generation capacity through an open tender process is limited to generation with capacity of at least three percent of installed capacity, restricting the entry of small generators.

As the total grid capacity grows, the threshold for open tendering of generation requirements rises.

The public benefits of encouraging the entry of new generators was found to exceed the costs associated with the tendering process when significant extra capacity is required.

3. Legislated vertical integration.

The legislation specifically allows Western Power to operate in the generation, transmission, distribution and electricity trading segments of the market.

The review recommended that ring fencing be implemented, particularly with respect to infrastructure access, to ensure that the public benefits of competition can be achieved in the context of the current structure of Western Power. The review also recommended that further review of the vertical integration model be done prior to consideration of full contestability or privatisation.

Implementation: The recommended amendment to the Act and new regulation are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: *Competitive neutrality restrictions.*

A number of minor restrictions were identified which could potentially put Western Power at a disadvantage. These included provisions related to Ministerial direction, approval and consultation, compliance with certain public sector legislation, and public sector borrowing limits.

The restrictions were retained because the benefits of public accountability of a government-owned business were found to outweigh the costs to the Corporation of compliance.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

ENERGY CORPORATIONS (POWERS) ACT 1995

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Representatives of the Chamber of Commerce and Industry of Western Australia, the Office of Energy, Western Power and AlintaGas were interviewed to obtain their views.

Composition of Review Body: Independent consultants conducted the review; intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended the restriction providing monopoly rights to LPG trading be removed.

The review found that the costs of the restriction on competition outweighed the benefits of tight control of the market. All restrictions on LPG trading have now been removed and LPG suppliers can now compete with the supply of natural gas.

Implementation: The recommended amendment to the Act and new regulation are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: *Competitive neutrality restrictions.*

The energy corporations have powers of compulsory land acquisition and disposal, powers of entry, and also certain planning approval and water rights and indemnity against compensation claims.

Retention of this restriction was assessed as being in the public interest because the benefits of facilitation of energy supply outweigh the costs to landowners and the possible disadvantages to proponents of other land uses. The review recommended retaining these provisions but extending the rights to all undertakings for the provision of public energy facilities.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

ENVIRONMENTAL PROTECTION ACT 1986

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties.

Composition of Review Body: Review conducted by independent consultant; intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial restrictions: For reasons outlined below, the review recommended retention of restrictions that prevent entry to an industry, constrain freedom of firms to make business decisions and discriminate between firms. Identified restrictions include:

Restriction 1: *The ability to require an environmental impact assessment.*

Restriction 2: *Licensing of occupiers of prescribed premises.*

Restriction 3: *Exempting certain firms from EPA licensing.*

Restriction 4: *Requirement for firms to comply with the environmental standards set.*

Restriction 5: *The power to prepare and publish environmental protection policies.*

Restriction 6: *Restricting the transport and disposal of liquid and organic waste.*

Restriction 7: *Restricting emissions of sulphur dioxide, atmospheric wastes and ozone substances.*

Restriction 8: *Restricting activities of land holders around the Peel Inlet and Swan Coastal Lakes.*

Restriction 9: *Restricting noise emissions.*

The costs of these restrictions include restricted output, higher prices, possible allocative inefficiencies and higher government regulatory costs, industry compliance costs and costs of production. The restrictions were retained in the public interest because their costs were assessed as being outweighed by the benefits they provide in protecting quality of life and reducing health risks by controlling activities with potentially large negative effects on the environment and maintaining the load on the environment at an appropriate (ie sustainable) level.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

EXOTIC DISEASES OF ANIMALS ACT 1993

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for public comment: Consultation has been adequate given the minor nature of the restriction contained in the Act. Advice on the public benefit of the restrictions was sought from technical experts.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial restrictions: The review recommended retention of the following non-trivial restrictions for reasons outlined below:

Restriction 1: *Powers to inspect, demand assistance and issue local quarantine orders.*

Restriction 2: *Powers to seize and destroy infected stock.*

Restriction 3: *Powers to control the movement of stock.*

The restrictions in the Act provides a means for the community to control or eradicate outbreaks of exotic diseases in stock.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

EXPLOSIVES AND DANGEROUS GOODS ACT 1961

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Findings of national committees under the National Occupational Health and Safety Commission were used; views of stakeholders sought through industry committees. The review was advertised in *The West Australian*.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review concluded that all restrictions in the legislation should be amended or removed. Specifically, the review recommended that the following amendments be made:

1. The licensing requirement for the manufacture of explosives be aligned with existing performance based controls for other chemicals.
2. The licensing restrictions on the storage of explosives be amended to remove requirements for approval by inspectors and shift responsibility for safety to the industry.
3. The restrictions on the sale of explosives be administered by one agency (the Police Department) to improve administrative efficiency.
4. The requirement for a permit for each fire-works display be replaced by an accreditation system with an audit process.
5. The present advantage granted to certain persons in the issue of permits to use explosives be amended so that criteria are based on competency considerations.
6. The restriction requiring pre-inspection and licensing of vehicles used for the transport of explosives be removed and replaced with the system currently being implemented for other dangerous goods in the new national transport legislation.
7. The restriction requiring licences for the storage of dangerous goods be replaced by an industry based accreditation scheme.
8. The system of classification of dangerous goods and the authorisation criteria for explosives be amended to directly reference the United Nations criteria.

Implementation: New legislation is being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: No restrictions on competition were retained in their current form.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

FERTILISERS ACT 1977 AND REGULATIONS

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Interviews were conducted with the Registrar of Fertilisers, and the Manager of Chemical Standards, Victorian Dept of Natural Resources and Environment. This minimal level of consultation was considered appropriate given the trivial nature of the restrictions and the review outcome.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended:

Modify Act to apply only to those fertilisers that pose a risk to agriculture, (especially those containing heavy metals) and that less restrictive means are used to achieve the same objectives for other fertilisers.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The restriction requires retailers to clearly label fertilisers and handle them in such a way as to avoid contamination.

This restriction is retained to protect consumers against the risk of fertiliser contamination which could potentially result in product damage, pose a health hazard and cause the loss of valuable export grain markets. These benefits outweigh the costs of administration in the case of high risk fertilisers such as those containing heavy metals.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

FINANCE BROKERS CONTROL ACT 1975

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties. Broad consultation was carried out

Composition of Review Body: Industry reference group including representatives from: Australian Bankers Association, Australian Finance Conference, Consumer Credit Legal Service (WA) Inc, Consumer Representatives, Financial Counsellors Association of WA, Mortgage Industry Association of Australia, The Institute of Finance Brokers of WA and Ministry of Fair Trading; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended:

1. Repeal of the entire Act along with all restrictions pertaining to licensing and the management of the Finance Brokers Control Board.
2. Introduction of a Code of Practice under the Fair Trading Act 1987, to provide regulation of financial intermediaries who deal as private lenders, for three years until the industry develops a self-regulatory mechanism.

Implementation: The recommended repeal of the Act is being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: No restrictions retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

GAS CORPORATION ACT 1994

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Representatives of the Chamber of Commerce and Industry of Western Australia, the Office of Energy, Western Power and AlintaGas were interviewed to obtain their views.

Composition of Review Body: Independent consultants; intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended the following restrictions be removed or amended as indicated:

1. Exclusive franchise.

AlintaGas has an exclusive franchise with respect to small use customers, protecting its monopoly by preventing competition at the lower end of the market.

The benefits of competition in commercial and domestic gas supply outweigh the costs associated with the possible reduction in AlintaGas's market share. In accordance with the Natural Gas Pipelines Access Agreement (1997), the timetable for third party access and contestability will see full contestability for all users down to household level by 1 July 2002.

2. Legislated vertical integration.

The legislation specifically allows AlintaGas to operate in the generation, transmission, distribution and trading/retail segments of the gas market.

The review found that the legislated vertical integration of AlintaGas allowed the Corporation to exercise significant market power at the possible expense of new competitors. However, it was also found that under the appropriate regulatory and structural conditions, including ring fencing for access elements, the costs of vertical integration do not necessarily outweigh the benefits of economies of scale.

With the sale of the Dampier to Bunbury Natural Gas Pipeline, AlintaGas is no longer involved in the gas transmission part of the gas market. The review recommended that ring fencing be implemented, particularly with respect to infrastructure access, to ensure that the public benefits of competition can be achieved in the context of the current structure of AlintaGas. While there are no plans at present to separate the distribution and trading/retail arms of AlintaGas, full ring fencing of the distribution business under the National Gas Access Code will occur by 1 July 2002 when full access to the network will be available. Further review of the structure of AlintaGas is to be done prior to privatisation.

Implementation: The recommended amendment to the Act and new regulation are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restrictions for reasons outlined below:

Restriction 1: *Competitive neutrality restrictions.*

A number of minor restrictions were identified which could potentially put AlintaGas at a disadvantage compared with its competitors. These included provisions related to Ministerial direction, approval and consultation, compliance with certain public sector legislation, and public sector borrowing limits.

The restrictions were retained because the benefits of public accountability of a government-owned business were found to outweigh the costs to the Corporation of compliance.

Restriction 2: *Obligation to provide additional distribution capacity.*

The Corporation is required to provide additional distribution capacity on request by access seekers if a reasonable commercial return is achievable.

The benefits of increasing competition, through access of third parties to the distribution network, were found to outweigh the possible higher costs for AlintaGas in providing additional capacity ahead of schedule.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

GOVERNMENT RAILWAYS ACT 1904

Terms of Reference:) Minimal review and brief report provided
Opportunities for Public Input:) but accepted because it recommended
Composition of Review Body:) removal of major restrictions on competition.

Major Reform Outcomes: The review recommended:

Amendments to remove the competitive advantages or disadvantages conferred on the Commission including:

- reducing its powers to determine who may seek access to rail;
- ensuring its assets are valued on a commercial basis;
- neutralising its advantages gained from government borrowings;
- imposing rates and taxes equivalent to other transport operators;
- removing its powers to:
 - set conditions for carriage of goods by other railway operators;
 - control persons employed by other parties;
 - fix charges for all persons providing railway related services; and
 - license taxis and other transport operators; and
- applying safety rules and standards on an equal basis.

Implementation: Some of the recommendations have been be addressed by the Government Railways (Access) Act 1998 and the Rail Safety Act 1998, and others may be overtaken by the freight sale enabling legislation.

Net community benefit case supporting non-trivial retained restrictions:

Providing the Commission with a statutory monopoly not reviewed here but being addressed in the context of considering Westrail privatisation.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

HIRE PURCHASE ACT 1959 AND REGULATIONS

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited from interested parties through an advertisement in *The West Australian* newspaper.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended the repeal of:

1. The provisions prescribing the formation and content of hire-purchase agreements.
2. The disclosure requirements which impose a duty on an owner or dealer to provide certain information in a prescribed form to the hirer. These duplicate requirements of the Consumer Credit Code and are more onerous than those imposed by other jurisdictions.
3. The requirements covering the repossession of goods were removed, except for the requirements in relation to farmers.

Implementation: The recommended repeal of sections of the Act is being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction 1: *Credit providers are required to refund any surplus amount (ie where the value of the goods at repossession exceeds the amount owing) following repossession of goods under hire-purchase transactions.*

Restriction 2: *The court has power to reopen a hire-purchase agreement which is "harsh or unconscionable".*

The retention of the first two restrictions is justified on the grounds of fairness and equity. The first ensures that credit providers do not receive an unjustified windfall when hirers default on loans and the second enables redress for those treated unjustly and who may otherwise suffer as a result of unequal bargaining power in the negotiation of such transactions.

Restriction 3: *The ability of credit providers to repossess farming goods is regulated.*

The retention of this restriction enables farmers to continue to apply to the court for an extension for making payments where seasonal variations have prevented them from paying and, they are likely to be able to pay in the near future.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

HORTICULTURAL PRODUCE COMMISSION ACT (1988)

Terms of Reference: As per clause 5(9) of Competition Principles Agreement

Opportunities for Public Comment: An adequate level of consultation has been carried out considering the scale and scope of the review. The reviewers consulted primarily with the Commission and technical experts within Agriculture Western Australia.

Composition of the Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major reform outcomes: The restriction giving power to the Horticultural Produce Commission to impose compulsory levies to growers is to be amended to ensure that the levies are used only to fund services that are of a sufficiently public good nature and have had a benefit cost assessment.

Implementation: The recommended amendments are being drafted for implementation by the year 2000.

Net community benefit case supporting non-trivial restrictions: The review recommended that the restriction which gives powers to the Horticultural Produce Commission to raise compulsory levies from growers be retained. This conclusion is on the grounds that the levy provides an appropriate mechanism for raising funds for services that are of a benefit to all of the horticultural industry (eg R&D, marketing advice, industry standards).

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

INDUSTRIAL RELATIONS ACT 1979

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions made to a significant review of the legislation (the Fielding Review) formed the basis of the review. These submissions were sought through public advertisement as well as consultation with key stakeholders.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended the removal or amendment of the following restrictions:

1. Qualifications are required for Chief Commissioner and President and age limits are set for members of Western Australian Industrial Relations Commission (WAIRC). These are to be removed to enable the best person for the job to be eligible.
2. Individuals are not able to access the WAIRC. Individuals must join unions to be able to have unlimited access to the WAIRC.
3. Parties were not able to use legal practitioners in proceedings before the WAIRC unless both parties are in agreement.
4. The Gazette is currently required to be printed by the Government Printer. Alternatives to printing the Gazette are being considered, for example, producing the Gazette in CD-ROM format or allowing parties to access the Gazette via the internet.
5. Unions must have at least 200 members unless the WAIRC finds good reasons to allow smaller ones. A union cannot be formed if there are existing unions which the applicants could become a member of, unless there are good reasons. This limits the formation of enterprise unions.
6. Under the Act, employers in particular industries may be bound by an award even though they are not named as respondents to an award. This is to be amended so that any award made in the future would be binding only on those expressed to be parties to it and this would apply prospectively.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction 1: *Access to WAIRC by parties to workplace agreements.*

This clause restricts competition by providing differential access to the WAIRC by parties to industrial agreements or awards in comparison to parties to workplace agreements. Parties to workplace agreements have restricted access to the WAIRC, only being able to refer questions on interpretation rather than industrial matters.

While parties to workplace agreements do not have full access to the WAIRC, they can use a private arbiter to have an equivalent independent third party dispute resolution process. The review found that this restriction complemented the separation of agreement streams and enabled both systems to work more efficiently. The timeliness of dispute resolution processes was improved in both systems through the restriction. Therefore the retention of the restriction can be justified on public benefit grounds.

Restriction 2: *Restrictions on the jurisdiction of WAIRC – public sector standards.*

The WAIRC is prevented from dealing with alleged breaches of public sector standards.

As a more appropriate body with the skills, experience and resources is available to deal with complaints, this restriction is retained on public benefit grounds.

Restriction 3: *Prohibition on use of membership funds for political expenditure.*

Sections of the Act restrict unions from using membership subscriptions or affiliation fees for payments to political parties or to election candidate(s). Unions are, however, able to set up separate funds for political expenditure which members can make donations into.

The restriction was retained on the grounds of protecting members funds from being used for political purposes against their wishes. Members have the ability to make political donations if they wish.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

INSURANCE COMMISSION OF WESTERN AUSTRALIA ACT 1986

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Due to the minor nature of restrictions, it was felt that consultation was unnecessary.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not Applicable.

Net community benefit case supporting non-trivial restrictions: For reasons outlined below, and subject to being further considered under the Commission's Competitive Neutrality review, this review recommended retention of competitive neutrality restrictions that include:

Restriction 1: *The Commission being subject to requirements concerning Ministerial direction and oversight.*

Restriction 2: *Limits on investment and borrowing powers.*

Restriction 3: *Compliance with public sector legislation.*

Restriction 3: *Capacity to borrow from Treasury.*

Restriction 3: *Capacity to have a Treasury guarantee of its borrowing.*

The benefits that these restrictions provide arise from prudential oversight, accountability and compliance with public sector practices. It was concluded that the restrictions should be retained in the public interest because these benefits were assessed as outweighing the higher administration and compliance costs associated with the restrictions.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

LAW REPORTING ACT 1981

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties.

Composition of Review Body: Review conducted by independent consultant; intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that:

1. The current system under which law reports cannot be published without prior written approval of the Attorney General be replaced with a negative licensing system that gives blanket authorisation to anyone to publish law reports while preserving the Attorney General's right to revoke, vary or withdraw authorisation. It also recommended adoption of a less restrictive tender process and contractual period for arrangements under which the series of Authorised Reports are published.
2. The current practice of selective invitation and awarding of a ten year contract for publication of the Authorised Reports be replaced with a widened tender process and a reduction of future contract periods to five years.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The benefits of a legislative restriction on the publication of law reports was found to arise through maintaining the integrity of judicial processes utilising published judgments. This was assessed as outweighing the small costs associated with potential reduced innovation and availability of law reports.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

LICENSED SURVEYORS ACT 1909

STRATA TITLES ACT 1985

STRATA TITLES AMENDMENT ACT 1996

STRATA TITLES AMENDMENT ACT 1995

STRATA TITLES GENERAL REGULATIONS 1996

STRATA TITLES GENERAL AMENDMENT REGULATIONS 1996

STRATA TITLES GENERAL (AMENDMENT) REGULATIONS 1997

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: A public notice was placed in The West Australian newspaper and submissions were invited directly from interested parties.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended:

1. The reconstitution of the Land Surveyors Licensing Board so that there are as many members of consumers/user groups as licensed surveyors.
2. A clearer definition of what constitutes good fame and character, with particular regard to any previous criminal record including business fraud and/or dishonest business practices.
3. A reduced minimum level of supervised field training for trainee surveyors.
4. Repeal of regulations relating to the number of graduates a licensed surveyor can employ under the terms of a Professional Training Agreement.
5. Repeal of the powers of the Board to regulate the approval of particular insurers.

Implementation: The recommended amendments to the Act and new regulations are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: *Licensing of surveyors creates a barrier to entry into the profession of cadastral surveying*

This restriction is retained even though it may reduce competition in the authorised market for surveyors because it ensures that only competent professionals are permitted to undertake authorised survey work reducing the risk of error in determining land and property boundaries.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

LOTTERIES COMMISSION ACT 1990 & ASSOCIATED GAME RULES

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Due to the minor nature of restrictions, it was felt that consultation was unnecessary.

Composition of Review Body: Independent consultant; intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not Applicable.

Net community benefit case supporting non-trivial restrictions: For reasons outlined below, the review recommended retention of restrictions relating to market power, differential treatment, competitive neutrality and restrictions on reselling. Identified restrictions include:

Restriction 1: *allowing the Lotteries Commission (the Commission) to enter into agreements with other State lotteries agencies for the purpose of jointly conducting Lotto and Soccer Pools;*

Restriction 2: *allowing the Commission to use trading names and symbols;*

Restriction 3: *allowing the Commission to obtain permits directly from the Minister;*

Restriction 4: *making it an offence for a person, without approval of the Commission, to derive a fee or reward for promoting or forming a syndicate to purchase a ticket in a game conducted by the Commission; and*

Restriction 5: *allowing the Commission to enjoy the status, immunities and privileges of the Crown.*

The benefits of these restrictions can be categorised in terms of achieving economies of scale, pursuing social objectives, controlling risk of public harm and minimising regulatory costs. The restrictions were retained in the public interest because they were assessed as outweighing the costs associated with reductions in competition and choice of lottery products.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

MOTOR VEHICLE DEALERS ACT (1973)

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Consultation occurred between the Motor Vehicle Sales Industry Reference Group and market participants consumers.

Composition of Review Body: The Motor Vehicle Sales Industry Reference Group comprising representatives of Motor Trade Association – MTA, Motor Vehicle Dealers Licensing Board, independent motor vehicle dealers, Royal Automobile Club, Consumer Credit Legal Service, Financial Counsellors Association, WA Police Service, and Dept of Transport; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended:

1. Repeal the licensing restrictions on car market operators and salespersons.
2. Amending restrictions on yard managers.
3. Repeal the restriction giving power to the Motor Vehicle Dealers Licensing Board to set standards for premises.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction 1: *This restriction makes it compulsory for motor vehicle dealers to be licensed.*

The restriction is retained because licensing of motor vehicle dealers helps exclude unscrupulous persons from the industry which in turn helps ensure that customers are treated fairly. Licensing requires that dealers are solvent and understand their obligations under the Act.

Restriction 2: *This restriction makes it compulsory for yard managers to be licensed.*

This restriction is retained because many yard managers assume the same responsibility as motor vehicle dealers. The cost of the restriction is minor because it only requires a four day course to be licensed, and the benefits to consumers outweigh these costs.

Restriction 3: *This restriction requires statutory warranties on used vehicles.*

Statutory warranties were introduced to provide better safeguards for consumers with respect to un-roadworthy and dangerous vehicles sold by dealers. The value of this warranty in protecting consumers from exploitation is considered to outweigh its costs, so that this restriction is to be retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

NORTH WEST GAS DEVELOPMENT (WOODSIDE) AGREEMENT AMENDMENT ACT 1994

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties following release of an information paper.

Composition of Review Body: Review conducted by independent consultant; inter-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial restrictions: The review recommended retention of the following non-trivial restrictions for the reasons outlined below:

Restriction: Restrictions that arise from legislative authorisations given for anti-competitive elements associated with various contracts entered into by Woodside joint venture participants. These authorisations constitute section 51 exceptions from the Trade Practices Act 1974.

The review concluded that it would be in the public interest for these restrictions to continue until their expiry in 2005 because the costs associated with any lessening of competition were outweighed by the following benefits:

- the long term stability provided for investment; and
- as a prerequisite to the deregulation that has occurred in Western Australian electricity and gas markets.

Moreover, their unilateral removal by Government would be seen as antagonistic by industry, with a long-term reduction in resource development investment in the State.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

PAINTERS REGISTRATION ACT 1961

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties. The review was advertised and the review report was released for a period of public comment from 13 July 1998 to 7 August 1998.

Composition of Review Body: A review reference group was established with representatives from industry, consumers and the Ministry of Fair Trading. The groups represented were: Ministry of Fair Trading, Master Builders Association, Master Painters, Decorators and Signwriters Association, The Consumer Association, Painters Registration Board, WA Academy of Performing Arts, Housing Industry Association and WA Builders Labourers, Painters and Plasterers Union of Workers; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended:

1. Amend or repeal the Act to allow for the establishment of a less restrictive certification scheme in place of the current licensing arrangements.
2. A full review of the Act is to be completed by 30 June 1999.

Implementation: The recommended amendment or repeal of the Act is being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: No notable non-trivial restrictions retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

PIG INDUSTRY COMPENSATION ACT 1943

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Consultation was limited to industry representatives (eg growers association) which was sufficient in light of the trivial nature of the restrictions.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended:

Repeal the sections of the Act providing for compulsorily raised funds to be used for scientific research and at the Minister's discretion, and a proposed Agricultural Produce Commission Bill applying to all growers councils be enacted.

The changes would ensure that funds from compulsory levies are only used for services of a public good nature. The proposed Agricultural Produce Commission Act will be subjected to a review in accord with clause 5(5) of the Competition Principles Agreement.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The Act allows the Minister to raise levies from growers to fund services to the pig industry including compensation and disease control programs.

This restriction is retained because it provides a service that benefits all growers and would not be provided for by the private sector in the absence of legislation. However the restriction is to be amended to ensure that these levies are used only to fund services where there is a case for government intervention on the grounds of market failure and that this service has been assessed to derive benefits that exceed costs.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

PLANT PESTS AND DISEASES (ERADICATION) FUND ACT 1996 (FORMERLY SKELETON WEED AND RESISTANT GRAIN INSECTS (ERADICATION FUNDS) ACT 1974)

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Consultation was limited to technical experts of Agriculture Western Australia. This level of consultation was justified considering the trivial nature of the restrictions.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended:

Amend the restriction giving power to the Minister to impose compulsory levies to growers through changes to the Agricultural Protection Board Act to ensure that these levies are used only to fund services that:

- are “of a sufficiently public good nature”; and
- have been assessed in accordance with benefit cost methodology approved by Treasury or Agriculture Western Australia.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: No non-trivial restrictions retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

POLICE FORCE CANTEEN REGULATIONS 1988

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Due to the minor nature of the legislation it was felt that consultation was unnecessary.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended the exemption for police canteens from the Liquor Licensing Act 1988 should be removed. The exemption gives the canteen more flexibility in its operations than private sector liquor operators. Although the economic impact of this restriction is minimal from an economy wide perspective, there appears to be no public interest reason to discriminate in favour of the police canteen.

Implementation: The recommendation is to be implemented by the year 2000.

Net community benefit case supporting non-trivial retained restrictions: No restrictions were retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

POTATO GROWING INDUSTRY TRUST FUND ACT 1947

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Consultation has been adequate given the minor nature of the restriction contained in the Act. Meetings were held with industry representatives including representatives of the Potato Growers Association and the Potato Industry Trust Advisory Committee.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial restrictions: The review recommended retention of the following non-trivial restriction for the reasons outlined below:

Restriction: The power to raise a compulsory levy on the sale of potatoes for the purposes of disease control and providing compensation to growers in the event of a disease outbreak.

This restriction is retained on the grounds that the Fund provides a means of overcoming market failure arising from a spreading pest or disease. However the report also recommends that the Act be repealed pending the enactment of the Agricultural Produce Commission Bill which would include the restrictions currently contained in this Act.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

POULTRY INDUSTRY (TRUST FUND) ACT 1948

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Consultation was limited to the trust fund management and staff of Agriculture Western Australia. This level of consultation was justified considering the trivial nature of the restrictions.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended:

1. Amend the levy raising powers of the Poultry Industry Trust Fund Committee ensure that those funds are used only to fund services (including disease control and compensation) that:
 - are “of a sufficiently public good nature”; and
 - have been assessed in accordance with benefit cost methodology approved by Treasury or Agriculture Western Australia.
2. The current arrangements of financial assistance of the Trust Fund to the Poultry Farmers Association be removed and funded by voluntary levy.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The power of the Poultry Industry Trust Fund Committee to impose a levy on the sale of eggs.

This restriction was seen to be in the public interest as it addresses the issue of market failure which is associated with the control of diseases and pests in the agricultural sector.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

PROFESSIONAL STANDARDS ACT 1997

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Due to the minor nature of restrictions, it was felt that consultation was unnecessary.

Composition of Review Body: Independent consultant; intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The restriction potentially arises through the legislation providing that a person who is a member of a professional or occupational association that has a scheme registered with the Professional Standards Council may secure limited liability with respect to occupational liability claims for damages made against them.

The restriction was assessed as providing a net community benefit through contributing to a net reduction in risks incurred by consumers of the relevant services.

Although there may be some redistribution of financial risk to consumers who may at some time desire to make a claim for damages in excess of the relevant liability cap, this cost is largely compensated for by requirements on persons covered by the scheme to implement risk management strategies and hold insurance or business assets sufficient to meet any claims.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

PUBLIC WORKS ACT 1902

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: An independent consultant conducted the review through a targeted consultation process with both public sector and private organisations.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: No non-trivial restrictions retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

RATES AND CHARGES (REBATES AND DEFERMENTS) ACT 1992

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Consultation was limited to the State Revenue Department and Treasury because the legislation had minimal impact on competition.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The Act refers to the differential treatment afforded pensioners and other eligible persons with respect to certain amounts payable by way of rates and charges. The legislation, in effect, discriminates in favour of pensioners and other eligible persons.

This restriction is retained because only a very small group of eligible persons could potentially obtain a competitive advantage from the differential treatment received, and where such advantage occurred it would be minor. On the other hand, the removal of pensioner rebates and deferments in respect of rates and charges would have a significant impact on the standard of living of pensioners and other eligible persons.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

ROTTNEST ISLAND AUTHORITY ACT 1987

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: The review was advertised in *The West Australian* newspaper.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restriction on the membership of the Authority be removed. This would enable the most suitable person for the job to be appointed.

Implementation: The recommended amendment to the Act is being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction, as well as a number of minor restrictions, for reasons outlined below:

Restriction 1: *The Authority has the power to grant leases and licences on the island*

This is the most significant restriction on competition in the Act. The lease system enables the Authority to determine which businesses operate on the Island and grant leases through a tender process. One of the benefits of this policy is to make certain a continuous supply of goods and services on the Island by ensuring the successful tenderer is financially sound. The lease system also enables the Authority to ensure that commercial interests do not compromise the Authority's other objectives. Also, the review found that the restrictions contained in the leases are comparable with the strategy of business selection practised by private operators in comparable situations (eg privately owned island on the Barrier Reef, shopping centre owners).

The following restrictions on competition were also retained on public interest grounds:

- Access to facilities on the island is limited.
- Prohibition of the Authority from selling any land on Rottnest.
- Prevention of the Authority allowing anyone to remove any flora, fauna, rock, stone or soil from the island for any commercial purposes.
- Limitation on development and provision of accommodation.
- Requirement for building work to be approved by the Authority.

These restrictions are applied where commercial activities may compromise the environmental and heritage objectives of the Authority.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

SANDALWOOD ACT 1929 AND REGULATIONS

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited by public advertisement and directly from interested parties following release of an information paper.

Composition of Review Body: Independent consultant; intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended removal of a legislative restriction that imposes an arbitrarily set proportional quota on harvesting sandalwood from private land (ten per cent of the total harvested).

Implementation: The recommended amendment to the Act is being prepared for implementation by year 2000.

Net community benefit case supporting non-trivial restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Legislation restrictions whereby a licensing scheme is used to restrict participation in the industry and to restrict the total quantity of sandalwood harvested by the industry and the quantities harvested by individual licensees.

The costs of these restrictions include a reduction in the number of participants exploiting the resource, reduced production and increased prices in the short-term, and ongoing administration costs of regulation. These costs were assessed as being outweighed by benefits associated with the long-term sustainability of resource exploitation, which include securing a return to the State from use of the public resource and the preservation of the sandalwood species.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

STATE SUPPLY COMMISSION ACT 1991 AND SUBORDINATE LEGISLATION

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties. In addition a public notice advertising the review and calling for submissions was placed in The West Australian newspaper.

Composition of Review Body: Independent consultant; intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restrictions for reasons outlined below:

Restriction 1: *Restrictions on participation of potential suppliers/buyers in government trading;*

Restriction 2: *Discrimination between potential suppliers competing for government contracts; and*

Restriction 3: *Interference with fair and competitive pricing in government purchasing and disposal activities.*

These restrictions are retained because the benefits from regional development were considered to be greater than the costs to resource allocation efficiency when weighing the public benefits and costs of some supply policies.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

STATE TRADING CONCERNS ACT 1917

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Nil. Owing to the nature and operation of the legislation it was felt that consultation was unnecessary.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The Act prohibits the Government from entering into or establishing any trading concern, except where the entity has been established under specific enabling legislation; has been established as a "trading concern" under the Act; or is a department and has been authorised by the Treasurer under the Act to generate revenue from specified activities.

This restriction is retained because while it restricts the freedom with which government agencies can enter markets for goods and services it also reduces the risk that Government will become involved in inappropriate commercial ventures.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

SUBIACO REDEVELOPMENT ACT 1994

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: The views of interested parties were sought directly.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The Authority has exclusive powers to control the area for redevelopment and for compulsory acquisition of land. The Authority receives subdivision approval from Minister rather than the WA Planning Commission.

The powers of the Authority restrict competition by overriding the operation of the free market. Yet without this intervention the free market would not clean up the existing environmental problems and achieve redevelopment in line with the community vision for this area. The restriction is retained in the public interest because the benefits of the cleaner environment were considered greater than the minor negative impact on the economy.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

SUITORS FUND ACT 1964

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Due to the minor nature of restrictions, submissions were only invited directly from an interested party.

Composition of Review Body: Intra-agency committee and process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review identified one restriction that relates to differential treatment of large companies and Crown agencies. Under this restriction, all litigants are required to contribute to a fund which is used to defray legal costs where a court decision is reversed on a "point of law" appeal or where proceedings are aborted. However, companies with paid up capital of \$200,000 or more and Crown agencies are barred from access to the Fund to recover such legal costs.

A Cabinet Submission to remove the differential treatment of these entities was approved in 1994 prior to the review. A draft Bill is being prepared. The review concluded that the proposed amendment should be enacted by the year 2000.

Implementation: The recommended amendment to the Act is being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial restrictions: No restrictions were retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

TRUSTEE COMPANIES ACT 1987

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended repeal of a barrier to entry on becoming a trustee company and its replacement with a less restrictive barrier.

At present, to become a trustee company requires the Governor's approval based on the company having demonstrated that it has adequate capital backing, professional expertise and otherwise satisfies criteria set out in publicly available guidelines.

This barrier was found to be in the public interest because of the benefit it provides in reducing risk of loss to beneficiaries from poor management and/or insolvency of the estate administrator. The review concluded however that greater net public benefit could be achieved by amending aspects of the guidelines and by replacing the present barrier with a requirement that trustee companies (or preferably their Directors) must lodge a proof of indemnity.

Implementation: The recommended amendment to the Act and changes to the guidelines are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial restrictions: No restrictions were retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

UNIVERSITY ACTS:

- MURDOCH UNIVERSITY ACT
- UNIVERSITY OF WESTERN AUSTRALIA ACT 1911
- CURTIN UNIVERSITY OF TECHNOLOGY ACT 1966
- EDITH COWAN UNIVERSITY ACT 1984
- UNIVERSITY OF NOTRE DAME AUSTRALIA ACT 1989

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties. General public consultation was not considered necessary given the nature of the restriction in the Acts.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that:

- The investment provisions of the Edith Cowan University Act 1984 be amended to be consistent with those of other universities.
- The issue of tax exemptions be addressed in the competitive neutrality review which is about to commence.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restrictions for reasons outlined below:

Restriction 1: *Empower the Minister to vest land in universities;*

Restriction 2: *Allow universities to hold land without paying State taxes or local government rates.*

The restriction empowering the Minister to vest land in universities is justified on the grounds that it:

- gives universities land at no cost which serves to help reduce the cost of education services providing a significant public benefit where these services are part of the core purpose of the universities; and
- provides Government with some flexibility in its land tenure arrangements.

These exemptions and vested land may not be appropriate where the university carries out business activities and therefore will be addressed in the competitive neutrality reviews of the universities.

University Acts:

- Murdoch University Act
- University of Western Australia Act 1911
- Curtin University of Technology Act 1966
- Edith Cowan University Act 1984
- University of Notre Dame Australia Act 1989

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

UNIVERSITY COLLEGES ACT 1926

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Public consultation was not considered as being necessary given the nature of the restrictions contained in the Act.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

The review recommended that the University Colleges be included in the competitive neutrality review of universities.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review did not identify any non-trivial restrictions.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

VALUATION OF LAND ACT 1987

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited by public advertisement and directly from interested parties following release of an information paper.

Composition of Review Body: Independent consultant; intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the following restrictions be amended in the public interest:

1. Restricted eligibility for the position of Valuer General.

This restriction requires that the Valuer General is to be qualified for membership of the Australian Property Institute (the Institute).

The review concluded that it is in the public interest for this restriction to be less narrowly defined to allow a wider range of people to contest the position. Consequently, the Valuer General will no longer need to be qualified for membership of the Institute.

2. Restricted eligibility for engagement as a valuer by rating and taxing authorities.

At present, any person making valuations for rating and taxing purposes must be licensed under the Land Valuers Licensing Act or qualified for membership of the Institute.

The costs and benefits of this restriction will be assessed by the review of that other Act. However, independent of the outcomes of that other review, it was considered that this restriction should be removed because it is redundant.

3. Valuer General's powers to obtain information.

The Valuer General's Office has power to obtain information for the purpose of making valuations that exceed the powers available to private valuers.

The review found that it is in the public interest for the Valuer General to have the information collecting powers however it is not in the public interest to have them exclusively. Thus for reasons of competitive neutrality the public interest from the Valuer General's information collecting powers would be greater if the information could be made publicly available to reduce the chances of the Valuer General's Office having competitive advantages over private valuers. It was concluded that these powers should be amended to enable a greater flow of information – where this is in the public interest.

Implementation: The recommended amendments to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial restrictions: The review recommended retention of the following non-trivial restrictions for reasons outlined below:

Restriction 1: Restricted eligibility for engagement as a valuer by the Valuer General.

Any person employed by, or who is a member of, any rating and taxing authority cannot be engaged under contract as a valuer by the Valuer General.

The benefits of this restriction include the public confidence generated by the public perception that this restriction avoids conflicts of interests arising in valuation activities. The restriction was retained in the public interest because these benefits were assessed as outweighing the insignificant costs that arise from the Valuer General having to draw upon a reduced pool of expertise.

Restriction 2: Restricted economic activities of persons engaged by the Valuer General.

Any person employed in the administration of the Act is prohibited from engaging in any private valuation work without the written consent of the Valuer General.

The benefits of this restriction include the public confidence generated by the public perception that this restriction avoids conflicts of interests and unfair

competitive advantages arising for employees of the Valuer General. The restriction was retained in the public interest because these benefits were assessed as outweighing the costs associated with a reduction in economic freedom and potential income of the Valuer General's employees.

Restriction 3: Restricted ability of rating and taxing authorities to undertake valuation activities.

Approval from the Valuer General must be obtained by rating and taxing authorities to enable them to undertake valuation activities for rating and taxing purposes.

The benefits of this restriction include maintenance of technical standards and consistency in land valuation. The restriction was retained in the public interest because these benefits were assessed as outweighing the costs that arise from the inability of rating and taxing authorities to capture economic or financial benefits associated with their undertaking these activities themselves.

Restriction 4: Statutory immunity for the activities of the Valuer General.

This restriction was retained in the public interest because it was assessed as having negligible costs that are outweighed by the benefit it delivers by providing limited protection for statutory activities, in respect of which the Valuer General does not compete with private valuers.

Restriction 5: The Valuer General may levy fees for valuation data.

This restriction was retained in the public interest because it was assessed that the benefit of cost recovery to the Government outweighs the competitive advantages (if any) that may accrue to the Valuer General over private valuers as a result of the restriction.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

WA LAND AUTHORITY ACT 1992

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended:

1. Exempting surplus public sector land assets and urban renewal projects from the restriction on the Authority's retail activities in the higher end of the residential land market.
2. Allowing contracts to be agreed subject to Ministerial approval rather than seeking pre-approval.
3. Deleting from the legislation the power to compulsorily acquire land.
4. Requiring the Authority to be subject to a tax equivalent regime and pay to the Treasurer an amount equivalent to all rates and taxes imposed on private land developers that the Authority is currently not obliged to pay.

Implementation: The recommended amendment to the Act and new regulation are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial retained restrictions: No notable non-trivial restrictions retained.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

WA TREASURY CORPORATION ACT 1987

WA TREASURY CORPORATION AMENDMENT BILL 1997

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Consultation was restricted to Western Australian Treasury Corporation and Treasury because the legislation had minimal impact on competition and was of little community interest.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended that the restrictions on competition contained in the legislation are in the public interest and should be retained.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction: The Act provides an exemption to the Corporation from State duties, imposts or taxes. The amendment Bill weakened this restriction by removing the Corporation's outright exemption, but allows the Treasurer to grant an exemption where it is considered to be in the public interest.

The review found that the potential effects of the Treasurer using his discretion to exempt the Corporation from certain taxes, duties or imposts were minor. The Treasurer is only likely to grant an exemption if the securities issued by the Corporation are at an unfair competitive disadvantage to securities issued by the Commonwealth and other government borrowers. An unfair competitive disadvantage could arise where the securities issued by the Corporation are subject to duties that are not similarly imposed by other Australian jurisdictions on their securities.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

WATER AGENCIES RESTRUCTURE (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) ACT 1995

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: All major stakeholders were consulted during the review including the Water and Rivers Commission, Water Corporation, Aqwest, Busselton Water Board and the Western Australian Municipal Association; process overseen and report reviewed by Treasury.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review found there to be no restrictions on competition in the Act.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: Not applicable.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

WATER SUPPLY, SEWERAGE AND DRAINAGE ACT 1912

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for Public Input: Submissions were invited directly from interested parties.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review found there to be no restrictions on competition in the Act.

Implementation: Not applicable.

Net community benefit case supporting non-trivial retained restrictions: Not applicable.

LEGISLATION REVIEW COMPLETED AND ENDORSED BY CABINET

WESTERN AUSTRALIAN MEAT INDUSTRY AUTHORITY ACT (1976) AND REGULATIONS

Terms of Reference: As per clause 5(9) of Competition Principles Agreement.

Opportunities for public comment: An adequate level of consultation has been carried out considering the scale and scope of the review. Parties consulted include the Meat Industry Authority (MIA), the Health Department and industry through Agriculture Western Australia's Meat Industry Program and its partnership group.

Composition of Review Body: Intra-agency committee; process overseen and report reviewed by Treasury.

Major Reform Outcomes: The review recommended the repeal of anti-competitive and redundant sections within the Act including:

1. Restriction controlling abattoir capacity control measures.
2. Restriction regulating saleyards which will become redundant when national standards of quality assurance are in place.

Implementation: The recommended repeals to the Act are being drafted for implementation by year 2000.

Net community benefit case supporting non-trivial restrictions: The review recommended retention of the following non-trivial restriction for reasons outlined below:

Restriction 1: *Provision for branding controls.*

This restriction is considered a necessary government function to maintain clear stock identification and therefore should be retained.

Restriction 2: *Provision for the regulation of abattoirs and processing works.*

This restriction is also in the public interest because of health and safety concerns and therefore should be retained.

Attachment 1(B):

**LEGISLATION REVIEWS COMPLETED BUT NOT YET
CONSIDERED BY CABINET**

Review Item	Terms of Reference	Opportunities for public input	Review body
Racing Restrictions Act 1927	Based on clause 5(9) CPA.	None, due to the Agency's intention to repeal the Act.	Intra-agency committee, external consultant.
Racing Restrictions Act 1917	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee, external consultant.

Attachment 1(C):

LEGISLATION REVIEWS COMMENCED BUT NOT YET COMPLETED

Review item	Expected completion	Terms of Reference	Opportunities for public input	Review body
Architects Act 1921 and Regulations	Dec-97 (Held to fit in with national review.)	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee, external consultant.
Caravan Parks and Camping Grounds Act 1995	Jun-99	Based on clause 5(9) CPA.	Views of stakeholders sought.	Inter-agency committee, local government representatives, park operators represented.
Carnarvon Irrigation District Bylaws	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.
Casino Control Act 1984	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee, external consultant.
Casino (Burswood Island) Agreement Act 1985	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee, external consultant.
Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee, external consultant.
Conservation and Land Management Act 1984 and Regulations	Dec-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee, external consultant.
Country Areas Water Supply Act 1947	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Country Areas Water Supply Bylaws 1957	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Country Towns Sewerage Act 1948	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Country Towns Sewerage Bylaws	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Credit (Administration) Act 1984 and Regulations	Jun-99	Based on clause 5(9) CPA.	Stakeholders consulted and public comments sought.	Intra-agency committee.
Gaming Commission Act 1987	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee, external consultant.
Gaming Commission Regulations 1988	Jun-99	Based on clause 5(9)	Submissions sought directly, advertisement	Intra-agency committee, external consultant.

LEGISLATION REVIEWS COMMENCED BUT NOT YET COMPLETED

Review item	Expected completion	Terms of Reference	Opportunities for public input	Review body
		CPA.	in The West Australian.	
Harvey, Waroona Collier River Irrigation Districts Bylaws 1975	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.
Land and Drainage (Ratings Grades) Regulations 1986	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Liquor Licensing Act 1988 and Regulations	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee, external consultant.
Local Government Act 1995	Jun-99	Based on clause 5(9) CPA.	Views of stakeholders sought.	Agency representation, local government representatives of different peak bodies.
Marketing of Potatoes Act 1946	June 99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.
Marketing of Eggs Act 1945	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian	Intra-agency committee.
Metropolitan Water Authority (Miscellaneous) Bylaws 1982	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Metropolitan Water Authority Act 1982	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.
Metropolitan Water Supply, Sewerage and Drainage Act 1909	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Metropolitan Water Supply, Sewerage and Drainage Bylaws 1981	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Mineral Mining Act 1978	May-99	Based on clause 5(9) CPA.	Views of stakeholders sought.	Inter-agency committee, representatives of different peak bodies including prospectors, Chamber of Minerals and Energy, mining associations.
Motor Vehicle (Third Party Insurance) Act 1943 and Regulations	May-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee, external consultant.

LEGISLATION REVIEWS COMMENCED BUT NOT YET COMPLETED

Review item	Expected completion	Terms of Reference	Opportunities for public input	Review body
New Health Practitioner Legislation to replace the Chiropractors Act 1964 and Regulations; Dental Act 1939 and Regulations; Dental Prosthetists Act and Regulations; Nurses Act 1992; Occupational Therapists Registration Act 1980 and Regulations; Optical Dispensers Act 1966 and Regulations; Optometrists Act 1940 and Regulations; Osteopaths Act 1997; Physiotherapists Act 1950 and Regulations; Podiatrists Registration Act 1984 and Regulations; and Psychologists Registration Act 1976 and Regulations.	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian and release of discussion paper.	Inter-agency committee, external consultant.
Ord Irrigation District Bylaws	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.
Pawn Brokers and Second Hand Dealers Act 1994 and Regulations	Apr-99	Based on clause 5(9) CPA.	Public consultation from an earlier review inputted to the review.	Intra-agency committee.
Petroleum Pipelines Act 1969 and Regulations	May-99	Based on clause 5(9) CPA.	Views of stakeholders sought.	Intra-agency committee.
Preston Valley Irrigation District Bylaws	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.
Retail Trading Hours Act 1987 and Regulations	Jun-99	Based on clause 5(9) CPA.	Extensive public consultation. Public forum held. 1600 submissions received.	Inter-agency committee reporting to a community reference group comprising peak retail association bodies, unions, peak employer groups, consumer groups and peak tourism groups.
Rights in Water and Irrigation (Construction and Alteration of Wells)	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.

LEGISLATION REVIEWS COMMENCED BUT NOT YET COMPLETED

Review item	Expected completion	Terms of Reference	Opportunities for public input	Review body
Regulations 1963				
Rights in Water and Irrigation Act 1914	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian. Process of wide consultation with interest groups.	Inter-agency committee, external consultant.
Rights in Water and Irrigation Regulations 1941	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian. Process of wide consultation with interest groups.	Intra-agency committee.
Statutory Corporations (Liability of Directors) Act 1996	Jun-99	Based on clause 5(9) CPA.	None, due to minor nature of review.	Intra-agency committee.
Swan River Trust Act 1988 and Regulations	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.
Taxi Act 1994 and Regulations, and Amendment Regulations 1997	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian, broad consultation.	Intra-agency committee, external consultant.
Transport Coordination Act 1966 and Regulations	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian, broad consultation, public meeting.	Intra-agency committee, external consultant.
WA Greyhound Racing Association Act 1981	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.
Water (Dixvale Area and Manmah Area) Licensing Regulations 1974	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.
Water Agencies (Charges) Bylaws 1987	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Water Agencies (Entry Varrants) Regulations 1985	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Water Agencies (Infringement) Regulations 1994	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Water Agencies (Powers) Act 1984	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.

LEGISLATION REVIEWS COMMENCED BUT NOT YET COMPLETED

Review item	Expected completion	Terms of Reference	Opportunities for public input	Review body
Water and Rivers Commission Act 1995	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.
Water Boards Act 1904 and Bylaws	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Water Corporation Act 1995	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Water Services Coordination Act 1995	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Inter-agency committee, external consultant.
Waterways Conservation Act 1976 and Regulations	Jun-99	Based on clause 5(9) CPA.	Submissions sought directly, advertisement in The West Australian.	Intra-agency committee.
Workers' Compensation and Rehabilitation Act 1983	Jun-99	Based on clause 5(9) CPA.	Major stakeholders are represented on the Worker's Compensation and Rehabilitation Commission.	Intra-agency committee, external consultant may be sought.

Attachment 1(D):

CHANGES TO TIMING OF REVIEWS

Review Item	Original Due Date	Revised Due Date	Reason scheduled review has not been undertaken / completed
Agriculture Products Act 1926	Jun-98	Jun-00	Deferred on grounds that the Act will be repealed with the passing of the Agriculture Management Bill which will be reviewed in accord with clause 5 of the CPA.
Agriculture and Related Resources Protection Act 1976	Jun-98	Jun-00	Deferred on grounds that the Act will be repealed with the passing of the Agriculture Management Bill which will be reviewed in accord with clause 5 of the CPA.
Beekeepers Act 1963	Jun-98	Jun-00	Deferred on grounds that the Act will be repealed with the passing of the Agriculture Management Bill which will be reviewed in accord with clause 5 of the CPA.
Bulk Handling Act 1967	Jun-98	Dec-99	The reason for deferral of this Act is that the Minister received formal notification from the Chairman of Directors of Cooperative Bulk Handling that it intends to restructure itself. The Minister expects that a final decision on a new structure will be reached in the first half of 1999 so that the review of the Act should be able to be completed in 1999.
Chiropractors Act 1964 and Regulations	Dec-97	Jun-99	Replacement legislation developed and at present being reviewed, and when implemented will obviate need to review this existing legislation.
City of Perth Parking Facilities Act 1956 and Regulations	Dec-97	Not applicable	To be repealed by the Perth Parking Management (Consequential Provisions) Bill 1998 and replaced by the Perth Parking Management Bill 1998 for which a review has been completed (1998).
Country Slaughterhouse Regulations 1969	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review this existing legislation.
Dental Act 1939 and Regulations	Dec-97	Jun-99	Replacement legislation developed and at present being reviewed, and when implemented will obviate need to review this existing legislation.
Dental Prosthetists Act and Regulations	Dec-97	Jun-99	Replacement legislation developed and at present being reviewed, and when implemented will obviate need to review this existing legislation.
Friendly Societies Act 1894	Jun-97	Jun-99	Deferred whilst new replacement legislation is considered.
Health (Adoption of Food Standards Code) Regulations 1992	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health (Asbestos) Regulations 1992	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health (Cloth Materials) Regulations 1973	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need

CHANGES TO TIMING OF REVIEWS

Review Item	Original Due Date	Revised Due Date	Reason scheduled review has not been undertaken / completed
			to review existing legislation.
Health (Construction Work) Regulations 1973	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health (Drugs and Allied Substances) Regulations 1961	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health (Food Hygiene) Regulations 1993	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health (Game Meat) Regulations 1992	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health (Meat Inspection and Branding) Regulations 1950	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health (Pesticides) Regulations 1956	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health (Pet Meat) Regulations 1990	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health (Public Buildings) Regulations 1992	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health (School Dental Therapists) Regulations 1974	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Health Act 1911	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review this existing legislation.
Health Laboratory Service (Fees) Regulations	Dec-99	Jun-00	Repealed.
Hospitals (Licensing and Conduct of Private Hospitals) Regulations 1987	Dec-98	Sep-99	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Hospitals (Service Charges) Regulations 1984	Dec-98	Sep-99	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Hospitals and Health Services Act 1927	Dec-98	Sep-99	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.

CHANGES TO TIMING OF REVIEWS

Review Item	Original Due Date	Revised Due Date	Reason scheduled review has not been undertaken / completed
Hospitals and Health Services Amendment Act 1996	Dec-98	Sep-99	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Human Reproductive Technology Act 1991	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Human Reproductive Technology Amendment Act 1996	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Infectious Diseases (Inspection of Persons) Regulations	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Jetties Act 1926 and Regulations	Dec-97	Dec-99	To be replaced by the Maritime Bill. If this Bill is not passed before 31-Dec-99 then a review of the existing legislation will take place.
Legal Aid Commission Act 1976 and Regulations	Jun-98	Jun-99	Deferred to enable review to consider proposed amendments.
Legal Practitioners Act 1893 and Rules.	Dec-96	Mar-00	Deferred whilst national review considered, but now re-scheduled to March 2000.
Lights (Navigation Protection) Act 1930	Dec-97	Dec-99	To be replaced by the Maritime Bill. If this Bill is not passed before 31-Dec-99 then a review of the existing legislation will take place.
Lotteries Commission Regulations 1991 Lotto Rules 1990 Instant Lottery Rules Instant Lottery (Telespin) Rules 1991	Jun-97	Repealed	Repealed and replaced in 1996 by game rules which have been reviewed in conjunction with the Lotteries Commission Act 1990 with which they are associated.
Marine and Harbours Act 1981 and Regulations	Dec-97	Dec-99	To be replaced by the Maritime Bill. If this Bill is not passed before 31-Dec-99 then a review of the existing legislation will take place.
Meat Transport Regulations 1969	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Medical Act 1984 and Rules	Dec-97	Jun-99	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Medical Amendment Act 1996	Dec-97	Jun-99	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Mental Health (Consequential Provisions) Act 1996	Dec-97	Jun-99	Deferred, to tie in with a scheduled more general review on the operation of this legislation.
Mental Health (Transitional) Regulations 1997	Dec-97	Jun-99	Deferred, to tie in with a scheduled more general review on the operation of this legislation.
Mental Health Act 1996	Dec-97	Jun-99	Deferred, to tie in with a scheduled more general review on the operation of this legislation.

CHANGES TO TIMING OF REVIEWS

Review Item	Original Due Date	Revised Due Date	Reason scheduled review has not been undertaken / completed
Mental Health Regulations 1997	Dec-97	Jun-99	Deferred, to tie in with a scheduled more general review on the operation of this legislation.
Metropolitan (Perth) Passenger Transport Trust Act 1957 and Regulations	Dec-97	Dec-99	Deferred as MetroBus (the Trust) has been abolished, but the Act cannot be repealed because of ongoing legal liabilities for superannuation and workers compensation.
Motor Vehicle (Third Party Insurance) Act 1943	Jul-98	May-99	Deferred to enable additional consultation and to address issues raised therein.
Nurses Act 1992	Dec-97	Jun-99	Replacement legislation developed and at present being reviewed, and when implemented will obviate need to review this existing legislation.
Occupational Therapists Registration Act 1980 and Regulations	Dec-97	Jun-99	Replacement legislation developed and at present being reviewed, and when implemented will obviate need to review this existing legislation.
Offensive Trades (Fees) Regulations 1976	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Optical Dispensers Act 1966 and Regulations	Dec-97	Jun-99	Replacement legislation developed and at present being reviewed, and when implemented will obviate need to review this existing legislation.
Optometrists Act 1940 and Regulations	Dec-97	Jun-99	Replacement legislation developed and at present being reviewed, and when implemented will obviate need to review this existing legislation.
Pharmacy Act 1964 and Regulations	Dec-97	Jun-99	Replacement legislation developed and at present being reviewed, and when implemented will obviate need to review this existing legislation as might also occur as a result of the proposed national review of pharmacy legislation.
Physiotherapists Act 1950 and Regulations	Dec-97	Jun-99	Replacement legislation developed and at present being reviewed, and when implemented will obviate need to review this existing legislation.
Piggeries Regulations 1952	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Podiatrists Registration Act 1984 and Regulations	Dec-97	Jun-99	Replacement legislation developed and at present being reviewed, and when implemented will obviate need to review this existing legislation.
Poisons Act 1964 and Regulations	Dec-98	Jun-99	Deferred to accommodate and tie in with national review of aspects of this legislation.
Poisons Amendment Act 1996	Dec-98	Jun-99	Deferred to accommodate and tie in with national review of aspects of this legislation.
Poultry Processing Establishments Regulations 1973	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Psychologists Registration Act 1976 and Regulations	Dec-97	Jun-99	Replacement legislation developed and at present being reviewed, and when implemented will obviate need to review this existing legislation.

CHANGES TO TIMING OF REVIEWS

Review Item	Original Due Date	Revised Due Date	Reason scheduled review has not been undertaken / completed
Queen Elizabeth II Medical Centre (Delegated Site) By-Laws 1986	Dec-98	Sep-99	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Retail Trading Hours Act 1987 and Regulations	Dec-98	Jun-99	Deferred in response to community interest in the review. It was necessary to extend the consultation period and therefore the timing of the review had to be changed.
Shipping and Pilotage Act 1967 and Regulations	Dec-99	Dec-99	To be replaced by the Maritime Bill. If this Bill is not passed before 31-Dec-99 then a review of the existing legislation will take place.
Soil and Land Conservation Act 1945	Jun-98	Jun-00	Deferred on grounds that the Act will be repealed with the passing of the Agriculture Management Bill which will be reviewed in accord with clause 5 of the CPA.
Statutory Corporations (Liability of Directors) Act 1996	Jun-98	Mar-99	Deferred to enable review to consider proposed amendments and to enable additional consultation to occur.
Stipendiary Magistrates Act 1957	Dec-98	Jun-99	Deferred to enable review to consider proposed amendments.
Stock (Identification and Movement) Act 1970	Jun-99	Jun-00	Deferred on grounds that the Act will be repealed with the passing of the Agriculture Management Bill which will be reviewed in accord with clause 5 of the CPA.
University Medical School Teaching Hospitals Act 1955	Dec-98	Sep-99	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
WA Marine (Hire and Drive Vessels) Regulations 1983	Dec-99	Dec-99	To be replaced by the Maritime Bill. If this Bill is not passed before 31-Dec-99 then a review of the existing legislation will take place.
WA Marine Act 1982	Dec-99	Dec-99	To be replaced by the Maritime Bill. If this Bill is not passed before 31-Dec-99 then a review of the existing legislation will take place.
Western Australian Reproductive Technology Council (Nominating Bodies) Regulations 1992 and Directions	Dec-99	Jun-00	Replacement legislation to be developed and reviewed, and when implemented will obviate need to review existing legislation.
Wild Cattle Nuisance Act 1871	Jun-98	Jun-00	Deferred on grounds that the Act will be repealed with the passing of the Agriculture Management Bill which will be reviewed in accord with clause 5 of the CPA.

ATTACHMENT 2:

**Summary of Legislation Reviews
of
Proposed New Legislation**

LEGISLATION REVIEW OF NEW LEGISLATION COMPLETED AND ENDORSED BY CABINET

DAMPIER TO BUNBURY PIPELINE REGULATIONS

Net Community Benefit: The review recommended retention of the following restrictions for reasons outlined below:

Restriction 1: *Exemption from the Regulations is provided for contracts existing prior to the Regulations coming into force.*

The costs of the exemption are outweighed by the benefits it provides in avoiding issues of sovereign risk and litigation that might otherwise arise.

Restriction 2: *The pipeline owner is restricted from involvement in any related business.*

The costs of this restriction are outweighed by the benefits it provides in preventing vertical integration of the gas supply chain to avoid anti-competitive consequences.

Restriction 3: *Maximum transmission tariffs are prescribed for access to gas capacity.*

The costs of this restriction are outweighed by the benefits it provides in ensuring that the pipeline owner does not charge tariffs leading to monopoly rents and a reduction in investment activity.

Non - Restrictive Alternatives Considered:

The Regulations are a temporary measure during the transition to an alternative regime under a National Third Party Access Code.

LEGISLATION REVIEW OF NEW LEGISLATION COMPLETED AND ENDORSED BY CABINET

ENERGY COORDINATION AMENDMENT BILL 1997

Net Community Benefit: The review recommended retention of the following restrictions for reasons outlined below:

All restrictions identified relate to licensing: 1) *Licence required to operate a natural gas distribution system or sell natural gas to small-use customers;* 2) *Power of the Governor to exempt a company from licensing requirements if exemption is in the public interest;* 3) *Disclosure requirements in applying for a licence;* 4) *Coordinator can amend or apply differential licence terms and conditions;* 5) *Licences may be of differing duration;* 6) *Licence fees;* 7) *Coordinator to approve transfer of licences;* 8) *Asset management and performance audit requirements;* and 9) *Power of Coordinator to impose CSOs on a licence holder without transparency of funding or a requirement that the non-commercial service is to be funded by the government.*

Licensing is necessary to ensure that operators have the technical capacity and financial standing to provide a safe and reliable service.

Non - Restrictive Alternatives Considered:

Alternative ways of achieving the legislative objectives were examined. However, it was concluded that the proposed provisions are the most cost-effective ways of protecting small-use gas customers. In many cases, the legislation prescribes that a public interest test must be applied before a power is exercised, which ensures that the power will only be exercised if there is a net public benefit. In the case of the imposition of community service obligations, the reviewer concluded that non-commercial services should be funded in a transparent way when a licence holder is required to provide them to meet government policy objectives.

LEGISLATION REVIEW OF NEW LEGISLATION COMPLETED AND ENDORSED BY CABINET

ENVIRONMENTAL PROTECTION AMENDMENT BILL 1997

Net Community Benefit: The review recommended retention of the following restrictions for reasons outlined below:

Restriction 1: A discriminatory exemption arises because the government organisation to be created by the Amendment Bill, namely, Waste Management (WA), is exempt from the licensing requirements under the Environmental Protection Act 1986.

This restriction was retained in the public interest primarily because any competitive advantage derived by Waste Management (WA) from its exemption from licensing requirements will be offset by its being subject to mandatory assessment procedures undertaken by the Environmental Protection Authority (which are not mandatory for other market participants). Furthermore, Waste Management (WA) will not be able to operate in a market where the private sector is able to operate an adequate service.

Restriction 2: A barrier to entry arises because the Amendment Bill provides for Regulations to be made for the prohibition or regulation of solid fuel and solid fuel burning equipment.

This restriction was retained in the public interest primarily because the higher government and industry costs which would arise from the regulatory imposition of standards for solid fuel and solid fuel burning equipment are outweighed by the associated benefit of reducing health risks in the community.

Non - Restrictive Alternatives Considered:

1. The discriminatory exemption is the most efficient and least costly way of avoiding the Chief Executive Officer of the Department of Environmental Protection (who constitutes Waste Management (WA)) from having to licence him or her self. Alternatives considered included the establishment of a separate independent body to administer the licensing processes involved, and the establishment of Waste Management (WA) as a body independent of the Department of Environmental Protection.

2. The proposed requirement for an industry to comply with standards is the only effective method of avoiding the health and environmental risks that might otherwise arise. Alternatives considered included promotion of industry self-regulation through adopting voluntary codes of conduct. However, there is no coordinating body recognised by the industry to effectively administer such codes and there remains the opportunity for renegade sellers to ignore such codes thus making this an ineffective alternative. It would also be possible to ban solid fuel heaters in the metropolitan area, but this would be a very restrictive and highly impractical alternative.
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LEGISLATION REVIEW OF NEW LEGISLATION COMPLETED AND ENDORSED BY CABINET

ENVIRONMENTAL PROTECTION (LANDFILL) LEVY BILL 1997

Net Community Benefit: The review recommended retention of the following restriction for reasons outlined below:

Restriction: A restriction that arises from the Bill providing for Regulations to be made which can discriminate between landfill sites at which a levy is payable and between the levy rates payable for different classes of waste.

It was concluded that this restriction is in public interest primarily because the higher costs associated with the restriction are outweighed by its benefits which include a reduction in the risk of environmental damage from waste and ensuring that economic development and activity is ecologically sustainable in the long term.

Non - Restrictive Alternatives Considered:

It was concluded that this discriminatory restriction is the only way of achieving the objective of the legislation which is to reduce the depletion of metropolitan landfill sites and waste reduction.

LEGISLATION REVIEW OF NEW LEGISLATION COMPLETED AND ENDORSED BY CABINET

HEALTH PROFESSIONALS (SPECIAL EVENTS EXEMPTION) BILL 1999

Net Community Benefit: The review recommended retention of the following restrictions for reasons outlined below:

Restriction: One minor discriminatory restriction on competition provides for health professionals visiting the State in connection with special events declared by the Minister to be exempted from local registration requirements under relevant health practitioner registration legislation.

The review found that the Bill will have no impact on competition in the market for the provision of health services to residents of Australia. Although the Bill may make it less likely that local practitioners will be engaged by visiting teams to provide health care services, the costs associated with this will not be significant and will be more than outweighed by economic and social benefits associated with ensuring that Western Australia is well placed to compete on a national as well as an international basis to attract major sporting, cultural or other events.

Non - Restrictive Alternatives Considered:

The review found that exempting health practitioners visiting the State from local statutory registration requirements can only be achieved by legislative change and is less costly than requiring each visiting practitioner to seek individual exemption or temporary registration.

LEGISLATION REVIEW OF NEW LEGISLATION COMPLETED AND ENDORSED BY CABINET

NORTH WEST GAS DEVELOPMENT (WOODSIDE) AGREEMENT AMENDMENT BILL 1996

Net Community Benefit: The review recommended retention of the following restrictions for reasons outlined below:

This 1996 Amendment Bill inserted a new section 41A into the *North West Gas Development (Woodside) Agreement Act 1979*, by which section the State of Western Australia authorised, for the purposes of section 51(1)(b) of the Trade Practices Act, a gas contract between the North West Shelf "Domgas" Joint Venture Participants and BHP Direct Reduced Iron Pty Ltd (BHP DRI).

The gas contract is a high volume, long term (15 year) gas supply contract for a project that BHP DRI is constructing at Port Hedland for the production of direct reduced iron (the DRI project). The gas contract contains a take or pay provision for up to 130 tj/day with a requirement that further necessary gas up to an additional 20 tj/day (incremental gas) is purchased under the gas contract. At the time the contract was negotiated, the Joint Venturers were the only Western Australian gas supplier able to guarantee the necessary volumes at an acceptable price as tested by BHP through calls for offers from producers.

Aspects of the gas contract that were identified as possibly restricting competition are its volume and length which may prevent other gas suppliers from entering the market as well as the provision that the incremental gas must be taken from the contract gas supplier rather than from the open market. The question of whether these aspects are anti-competitive is open to debate. Without such a contract, energy intensive resource development projects would not be undertaken. The security of supply offered by contracts of this type is a major factor in obtaining Board approvals and project finance. If the security of such a contract is threatened, the project risk becomes high and the project would be unlikely to go ahead unless returns were exceptional to offset the increased risk.

The benefits of the exemption flow from the unhindered development of the project. In the absence of the exemption, authorisation for the gas contract might have been sought from the Australian Competition and Consumer Commission (ACCC), which would, at best, have delayed the project for two years at a cost of \$304 million to Western Australia or \$353 million nationally. The more realistic assessment however is that if the contract had not been exempted by the State, the market opportunity would have been missed and the DRI project would not have proceeded. This would mean the loss of all

prospective economic benefits, estimated to be \$1,750 million to Western Australia or \$2,043 million nationally, as well as causing damage to the perception that Western Australia is a secure investment destination for mineral processing. Other strategic benefits of the project going ahead include realisation of the Government's policy to add value to Western Australia's mineral wealth, future growth of the Pilbara region, and the promotion of Western Australia as a competitive investment destination.

While it is not possible to quantify decisively either public benefits or costs, it is likely that benefits of the extent enumerated significantly outweigh costs. It was concluded that beneficial impacts of the project proceeding as opposed to being postponed, or indeed, cancelled, are significant, and outweigh any costs associated with adverse environmental and social impacts, or adverse effects on the competitive market for gas in Western Australia.

Non - Restrictive Alternatives Considered:

An evaluation of changes that could be made to the contract to ensure that it does not restrict competition found that there are no valid alternatives to allowing the contract to remain as it is through a section 51 exemption from the Trade Practices Act.

The alternative of a shorter-term contract would not give enough security to a large resource development project to allow it to obtain finance. As well, gas sellers would have problems in raising capital or gaining Board approval for developing their reserves without the security of long term contracts. Therefore, neither buyers nor sellers could achieve their respective developments on the basis of short-term contracts.

Changes to the incremental gas clause would be impractical and commercially unacceptable. If the incremental gas amount were added to the take-or-pay provision, the buyer would have to take on an unacceptable burden.

The addition of a "first right of refusal" requirement to the contract whereby the seller must match any other competitor's bid would place the necessary volumes of incremental gas at risk. In the existing contract, the Joint Venture Participants have to hold that volume of gas available in reserve in the event that BHP DRI needs it. This is too large a volume of gas to hold available on an indefinite basis for sale at someone's lowest price. The "first right of refusal" requirement may also be judged to be anti-competitive.

It was concluded that there is no alternative to the existing gas contract, to achieve the stated end of allowing the DRI project to go ahead, without a similar restriction on competition.

LEGISLATION REVIEW OF NEW LEGISLATION COMPLETED AND ENDORSED BY CABINET

PERTH PARKING MANAGEMENT BILL 1998

Net Community Benefit: The review recommended retention of the following restrictions for reasons outlined below:

Restriction 1: *Parking facilities must be licensed and a licence fee may be charged.*

Restriction 2: *Placing limits on the number of tenant parking bays and the location of long term public parking facilities.*

These restriction are retained because the public interest benefits outweigh the costs, primarily on road network efficiency, air quality (environmental and health) and urban amenity grounds.

Non - Restrictive Alternatives Considered:

The review examines alternative means of limiting congestion in central city traffic that have been tested in other cities, but concludes that these are more difficult (and expensive) to implement and less equitable than the proposed legislation.

LEGISLATION REVIEW OF NEW LEGISLATION COMPLETED AND ENDORSED BY CABINET

PORT AUTHORITIES BILL 1998

Net Community Benefit: The review recommended retention of the following restrictions for reasons outlined below:

Restriction 1: *Exemption from planning and building requirements.*

Exemption from local government planning and building requirements limits the control exercised by local authorities over ports. This outcome is in the public interest because it prevents local authorities from responding to local or sectional interests that may hinder the strategic planning and operational activities of port authorities, to the detriment of the wider Western Australian community.

Restriction 2: *Pilotage and licensing provisions.*

Pilotage and licensing provisions create potential barriers to entry to port service operators, particularly where exclusive licences are issued. However, such provisions were deemed to be in the public interest for reasons of port safety and service continuity.

Non - Restrictive Alternatives Considered:

The objectives of the Port Authorities Bill are to achieve accountability and ownership controls, together with safety and public interest controls. None of these objectives can be readily achieved by alternative means other than through the licensing restrictions identified within this Bill.

**LEGISLATION REVIEW OF NEW LEGISLATION COMPLETED AND
ENDORSED BY CABINET**

PROSTITUTION CONTROL BILL 1998

Net Community Benefit: The review recommended retention of the following restrictions for reasons outlined below:

Restriction 1: *Registration of owners, managers, drivers and premises.*

Restriction 2: *Registration of prostitutes with prohibition of persons with certain diseases and criminal convictions.*

Restriction 3: *Restriction of brothels to industrial zones.*

Restriction 4: *Restrictions on advertising through the electronic media.*

The restrictions lessen the existing situation of prohibition with containment. The new legislation will increase transparency and protect the health and safety of workers in the industry while maintaining community standards.

Non - Restrictive Alternatives Considered:

Two alternatives were considered: complete deregulation and self-regulation. Neither of these options were considered to be acceptable due to the problems with public health issues that have developed in other countries without regulation.

ATTACHMENT 3:

**Response to NCC Request
on
Specific Legislation Reviews**

RESPONSE TO NCC REQUEST ON SPECIFIC LEGISLATION REVIEWS

Architects Act 1921

NCC Request: outline arrangements for review to confirm a robust objective process

Response: The review was advertised widely and interested parties were invited to make submissions. The review is largely completed and will be finalised after the national review of the legislation is completed.

Bulk Handling Act 1967

NCC Request: *outline arrangements for review to confirm a robust objective process and reform outcomes consistent with CPA principles*

Response: This review is yet to commence. It has been deferred until December 1999 on the grounds that the Minister is currently reviewing the operations and organisational structure of Cooperative Bulk Handling and that a legislation review would be premature until this review was completed.

Government Employees Superannuation Act 1987

NCC request: scheduled for review in 2000, report any change to current status

Response: The scheduled completion date for this review was some time ago brought forward from December 2000 to June 2000. Consideration is expected to be given to bringing this review further forward, and the completion date may be set as early as June 1999.

Health (Smoking in Enclosed Public Places) Regulations 1998

NCC request: provide a progress report on these regulations

Response: Although the *Health (Smoking in Enclosed Public Places) Regulations 1998* will take effect on 29 March 1999, the Government has stated its intention not to initiate any prosecutions under the regulations until October 1999 [*Parliamentary Debates* (1998) 2nd Sess p.3855]. This intervening period will allow time to complete a rigorous review of the regulations and to make any necessary changes to the regulations based on the recommendations of the review.

In addition, section 42 of the *Interpretation Act 1984* provides that the Parliament of Western Australia has 14 sitting days to disallow the regulations after they have been tabled, and this 14 day period is not likely to expire until 6 May 1999. It is intended that Western Australia's review of the regulations will be completed prior to 6 May.

Legal Practitioners Act 1893, Legal Practitioners (Professional Indemnity Insurance) Regulations 1995

NCC request: *demonstrate that current arrangements for legal professional indemnity insurance meet CPA principles*

Response: The review of this legislation was originally scheduled for completion by June 1997, then deferred to a date to be set whilst consideration was being given to a national review. Following the decision not to conduct a national review, the review of this legislation was recently re-scheduled for completion by March 2000. When commenced the review will consider, amongst other things, whether current legislative arrangements for legal professional indemnity insurance meet CPA principles.

Liquor Licensing Act 1988

NCC Request: *confirm current schedule status for review commencing December 1998*

Response: The review of the Liquor Licensing Act has commenced. Treasury's Competition Policy Unit received a first draft of the review on 16 November 1998.

Marketing of Potatoes Act 1946

NCC Request: *outline arrangements for review to confirm a robust objective process, report progress with review and, if reform decisions are taken prior to 31 December 1998, demonstrate remaining restrictions meet CPA principles*

Response:

The reviewers undertook broad consultation by calling for submissions in advertisements placed in *The West Australian* on 13 December 1997 and in the *Farm Weekly* and *Countryman* on 18 December 1997. On 14 February 1998 the Treasury Department placed a further advertisement in *The West Australian* to notify the public of the review process and provide opportunity for public input.

The reviewers received 55 submissions from a range of stakeholders including consumers, growers, retailers and industry peak bodies. Agriculture Western Australia is conducting the review. The terms of reference are consistent with clause 5(9) of the CPA.

The review process is yet to be completed and the final report has not been considered by Cabinet.

Medical Act 1984 and Rules, Medical Amendment Act 1996

NCC Request: *report on progress with development of replacement legislation*

Response: Replacement legislation is in the process of being developed. It is anticipated that a review of this replacement legislation will be completed by June 1999.

Motor Vehicle (Third Party Insurance) Act 1943

NCC Request: *provide review report and confirm that review process and reform outcomes are consistent with CPA principles*

Response: This review has yet to be completed, with delays having occurred as a result of an expanded consultation process.

Resource Development Agreement Acts

NCC Request: *agree to remove restrictions on competition which provide little or no benefit where there is mutual consent of the affected parties.*

Response: In relation to existing resource development Agreement Acts, Western Australia has agreed to consider removal of restrictions imposing a net community cost at the time each Agreement Act is reviewed or varied.

Retail Trading Hours Act 1987 and Regulations

NCC Request: *provide review report and confirm that review process and reform outcomes are consistent with CPA principles*

Response: The deadline for the completion of the review has been extended until June 1999. Progress with the review is well advanced, however, the draft report has not been completed yet.

A discussion paper for the review was released in May 1998. A public forum was held in June 1998 which explained the background to the review and the process to be followed. A video of the proceedings was made available to regional groups. Submissions were sought through advertisements in *The West Australian* Newspaper in June 1998. In response to the large number of submissions received (over 1,650), the closing date for the review was extended from August 1998 until September 1998.

A Community Reference Group has been convened to consider issues presented by the review team. The Group consists of a wide range of interested parties, including the Western Australian Council of Retail Associations, the Retail Trader's Association, the Chamber of Commerce, the Shop Distributive and Allied Employee Association, the Tourism Council of Australia and the Consumer's Association of Western Australia.

Workers Compensation and Rehabilitation Act 1981

NCC Request: *outline arrangements for review to confirm a robust objective process and reform outcomes consistent with CPA principles.*

The Competition Policy Unit has met with the agency responsible for reviewing the legislation and has raised the concerns expressed by the NCC. Expansion of the scope of the review process is currently being considered by reviewers.

ATTACHMENT 4:

**Western Australia's Progress
Against
Clause 3 of the CPA**

WESTERN AUSTRALIA'S PROGRESS AGAINST CLAUSE 3 OF THE CPA

4(1) Competitive neutrality applied	
Agency	CN model applied
-Albany Port Authority -Bunbury Port Authority -Dampier Port Authority -Esperance Port Authority -Fremantle Port Authority -Geraldton Port Authority -Port Hedland Port Authority	All recommendations have been incorporated into the draft Port Authorities Bill. The Bill will impose a commercialisation model upon the port authorities similar to that developed for Western Power, AlintaGas and the Water Corporation.
AlintaGas	Fully commercialised.
Water Corporation	Fully commercialised.
Western Power	Fully commercialised.

4(2) Reviews completed	
Review item	Recommendations/Implementation
-East Perth Redevelopment -Subiaco Redevelopment	Status quo maintained as no public interest case in support of removing advantages or disadvantages.
Government Employees Superannuation Board	Review concluded that there were no advantages or disadvantages that needed to be reviewed as part of the CN review process.
Western Australian Land Corporation	Fully commercial model to be applied and all regulatory functions to be removed.

4(3) Reviews in progress	
Review item	Review status
-Bunbury Water Board -Busselton Water Board	This review has commenced and is considering broader policy issues in relation to the Boards and ownership of property.
Coal Industry Superannuation Board	Awaiting changes to Commonwealth legislation regarding choice of Superannuation Funds.
Gold Corporation	The review has been finalised and has been presented to the Treasurer before consideration by the Cabinet Government Management Standing Committee (GMC).
Homeswest	Review is being finalised.
Insurance Commission of Western Australia	The review is currently being finalised by a consultant, and should be presented to the Minister in the near future.
State Housing Commission of Western Australia (Homeswest).	The review is expected to be finalised shortly, before presentation to the Minister for Housing.
Lotteries Commission	The review is being finalised and is expected to be presented to the Minister shortly.
Office of the Public Trustee	A draft of this review is expected to be finalised shortly.
Pathology Centre	A consultant completed a draft review report in December 1998. The review is still to be examined by the Board of the Pathology Centre and submitted to the Minister for finalisation with State Cabinet.
Rottneest Island Authority	Currently being considered by the Board of Rottneest Island Authority. Final submission likely by April.
Totaliser Agency Board	The TAB has commissioned a consultant to finalise its review by May 1999.
WA Fire and Emergency Services Superannuation Board	Awaiting changes to Commonwealth legislation regarding choice of Superannuation Funds.

4(4) Reviews yet to commence		
Review item	Due date	Comments
Agriculture Western Australia	Jun-00	New item on Implementation Schedule. Review will examine the agency's R&D business activity.
Dairy Industry Authority	Jun-00	Review has not commenced.
Forestry Operation of the Department of Conservation and Land Management	Jun-98	Awaiting completion of the legislation review. Seeking a consultant.
Government Employees Housing Authority	Jun-99	
Grain Corporation of Western Australia	Jun-99	Review commencement contingent on legislation review.
Grain Pool of Western Australia	Jun-00	Review commencement contingent on legislation review.
Metropolitan Cemeteries Board	Jun-97	Awaiting completion of legislation reviews of related legislation.
Perth Market Authority	Jun-98	Awaiting outcome of legislation review.
Recreation Camps and Reserves Board	Jun-00	Recent addition to table.
Rural Adjustment and Finance Corporation	Jun-00	Awaiting new <i>Agriculture Western Australia Bill</i> .
Technical and Further Education	Jun-00	Now listed as two reviews including TAFE Commercial operations and TAFE International.
- University of Western Australia - Murdoch University - Curtin University - Edith Cowan University	Dec-99	The Higher Education Taskforce of Ministerial Council for Education Employment and Training of Australia formed a working group of representatives from a range of universities to consider the commercial activities of universities from the perspective of competitive neutrality. The competitive neutrality review of universities is due in December 1999.

4(4) Reviews yet to commence - continued		
Review item	Due date	Comments
Valuer General's Office	Jun-99	Deferral granted by Cabinet. Legislation reviewed in 1998. A consultant has been engaged and review is about to commence.
Western Australian Egg Marketing Board	Jun-00	Awaiting outcome of review of <i>Marketing of Eggs Act 1945</i> and Regulations.
Western Australian Government Railways	Dec-96	Review suspended pending outcome of privatisation of Westrail.
Western Australian Meat Marketing Corporation (WAMMCO)	Jun-00	Government has approved a proposal to wind-up the operations of WAMMCO. Therefore the review will be unnecessary.
Western Australian Potato Marketing Authority	Jun-00	Awaiting outcome of legislation review of the <i>Marketing of Potatoes Act 1946 & Regulations</i> .
Western Australian Sports Centre Trust	Due date to be advised	Recent addition to table.
Western Australian Tourism Commission	Jun-99	Review about to commence.

4(5) Reviews that have been delayed or terminated	
Review item	Reason for delay or termination
Metropolitan Passenger Transport Trust (trading as MetroBus)	The review is no longer required following the Government's decision to contract out all of Perth's bus and ferry services to private operators. MetroBus ceased operation in July 1998.
Office of the Public Trustee	The review has been suspended in order to wait for the outcome of the restructuring plans of the office.
Perth Market Authority	The review has been delayed in order to wait for the findings of the review of enabling legislation in accord with clause 5(9) of the CPA.
Western Australian Meat Marketing Corporation	The review is likely to be suspended because the Government plans to privatise the agency by July 1999.
Western Australian Government Railways Commission (trading as Westrail)	The review has been put on hold following the Government's decision to sell Westrail's freight business.

ATTACHMENT 5:

Competitive Neutrality Outcomes for Western Australia's Local Governments

**COMPETITIVE NEUTRALITY
CATEGORY ONE COUNCILS**

LOCAL GOVERNMENT	Activity	CN Impl	CN not Impl
ALBANY (T)	<ul style="list-style-type: none"> • Daycare Centre • Leisure & Aquatic Centre • Waste collection • Waste disposal 	<ul style="list-style-type: none"> ✓ ✓ ✓ 	<ul style="list-style-type: none"> ✓
ALBANY (S)	<ul style="list-style-type: none"> • Albany airport 		
ARMADALE	<ul style="list-style-type: none"> • Armadale Aquatic Centre • Waste collection • Waste disposal 	<ul style="list-style-type: none"> ✓ 	<ul style="list-style-type: none"> ✓ ✓
ASHBURTON	<ul style="list-style-type: none"> • Waste management 		<ul style="list-style-type: none"> ✓
AUGUSTA -MARGARET RIVER	<ul style="list-style-type: none"> • Waste management • Turner Caravan Park Augusta • Private works • Margaret River Recreation & Aquatic Centre 		<ul style="list-style-type: none"> ✓ ✓ ✓
BASSENDEAN	No activity >\$200 000		
BAYSWATER	<ul style="list-style-type: none"> • Bayswater golf course • Aged persons' home (2) • Childcare centres (4) 	<ul style="list-style-type: none"> ✓ ✓ 	<ul style="list-style-type: none"> ✓
BELMONT	<ul style="list-style-type: none"> • Belmont childcare Centre 		<ul style="list-style-type: none"> ✓
BROOME	All activities have been leased to private sector or are in process of being sold. Reviews not necessary.		
BUNBURY	Resolved to apply CN principles to all 14 activities without review.	<ul style="list-style-type: none"> ✓ 	
BUSSELTON	<ul style="list-style-type: none"> • Domestic rubbish collection • Kookaburra Caravan Park 	<ul style="list-style-type: none"> ✓ ✓ 	
CAMBRIDGE	<ul style="list-style-type: none"> • Wembley Golf Course • Bold Park Aquatic Centre • Works & maintenance functions • Parks maintenance functions 	<ul style="list-style-type: none"> ✓ 	<ul style="list-style-type: none"> ✓ ✓ ✓
CANNING	<ul style="list-style-type: none"> • Waste disposal • Domestic rubbish collections 	<ul style="list-style-type: none"> ✓ 	

LOCAL GOVERNMENT	Activity	CN Impl	CN not Impl
	<ul style="list-style-type: none"> • Commercial rubbish collection • Crossover/stormwater connections • Private works • Swimming Centre • Golf course • Canning Lodge • Youth accommodation 	<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓ 	
CARNARVON	<ul style="list-style-type: none"> • Carnarvon airport 	<ul style="list-style-type: none"> ✓ 	
CLAREMONT	No activity >\$ 200,000		
COCKBURN	<ul style="list-style-type: none"> • South Lake Leisure Centre • Waste disposal service • Waste collection service 	<ul style="list-style-type: none"> ✓ 	<ul style="list-style-type: none"> ✓ ✓
COLLIE	<ul style="list-style-type: none"> • Waste management 		<ul style="list-style-type: none"> ✓
COTTESLOE	No activity >\$200,000		
DERBY - WEST KIMBERLEY	<ul style="list-style-type: none"> • Waste management 		
EAST PILBARA	<ul style="list-style-type: none"> • Newman Airport • Parks & gardens maintenance • Commercial rubbish collection 		<ul style="list-style-type: none"> ✓ ✓
ESPERANCE	<ul style="list-style-type: none"> • Esperance airport 	<ul style="list-style-type: none"> ✓ 	
FREMANTLE	<ul style="list-style-type: none"> • Development assessments • Info & compliance • Children's services • Seniors services • Fremantle Art Centre • Properties • Fremantle Leisure Centre • Commercial parking • Domestic waste • Commercial waste • Construction • Street works • Fremantle Golf Course 	<ul style="list-style-type: none"> ✓ 	<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ ✓ ✓ ✓
GERALDTON	<ul style="list-style-type: none"> • Rubbish collection • Queens Park Theatre 	<ul style="list-style-type: none"> ✓ 	<ul style="list-style-type: none"> ✓
GINGIN	<ul style="list-style-type: none"> • Guilderton Caravan Park 		<ul style="list-style-type: none"> ✓
GOSNELLS	<ul style="list-style-type: none"> • Waste disposal 		<ul style="list-style-type: none"> ✓

LOCAL GOVERNMENT	Activity	CN Impl	CN not Impl
	<ul style="list-style-type: none"> • Refuse collection • City of Gosnells Leisure World 		<ul style="list-style-type: none"> ✓ ✓
GREENOUGH	<ul style="list-style-type: none"> • Geraldton airport 	✓	
HARVEY	No activity >\$200,000		
JOONDALUP	<ul style="list-style-type: none"> • Sanitation household refuse • Domestic refuse carts collections • Commercial refuse collection • Craigie Leisure Centre • Aquamotion - pool • Ocean Ridge Community Centre • Sorrento/Duncraig Rec Centre 	<ul style="list-style-type: none"> ✓ ✓ ✓ 	
KALAMUNDA	No activity >\$200,000		
KALGOORLIE -BOULDER	<ul style="list-style-type: none"> • Airport • Sewerage 	<ul style="list-style-type: none"> ✓ ✓ 	
KATANNING	<ul style="list-style-type: none"> • Katanning saleyard 		✓
KWINANA	<ul style="list-style-type: none"> • Rec & Aquatic Centre • Aged care facility 		<ul style="list-style-type: none"> ✓ ✓
MANDURAH	<ul style="list-style-type: none"> • Mandurah Aquatic & Rec Centre 	✓	
MANJIMUP	No activity >\$200,000		
MELVILLE	<ul style="list-style-type: none"> • Meals on wheels • Recreation facilities • Point Walter Golf Course • Waste services • Re instatements 	<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ 	✓
MERREDIN	No activity >\$200,000		
MUNDARING	No activity >\$200,000		
MURRAY	<ul style="list-style-type: none"> • Recreational Centre 	✓	
NARROGIN (T)	No activity >\$200,000		
NEDLANDS	No activity >\$200,000		
NORTHAM (T)	No activity >\$200,000		
PERTH	<ul style="list-style-type: none"> • Waste management • Citiplace Child Care Centre • Parking services 	<ul style="list-style-type: none"> ✓ ✓ 	✓
PORT HEDLAND	<ul style="list-style-type: none"> • Airport • Refuse collection • Cultural Centre • South Hedland Aquatic Rec Centre 	<ul style="list-style-type: none"> ✓ ✓ 	<ul style="list-style-type: none"> ✓ ✓
ROCKINGHAM	<ul style="list-style-type: none"> • Waste collection • Millar Rd landfill site 		<ul style="list-style-type: none"> ✓ ✓

LOCAL GOVERNMENT	Activity	CN Impl	CN not Impl
	<ul style="list-style-type: none"> Rockingham Day Care Centre 		✓
ROEBOURNE	<ul style="list-style-type: none"> Waste management Airport Airport restaurant 		
SOUTH PERTH	<ul style="list-style-type: none"> Collier Park Hostel Collier Park Retirement Village Collier Park Golf Course Waste transfer station 	✓	<ul style="list-style-type: none"> ✓ ✓ ✓
STIRLING	<ul style="list-style-type: none"> Domestic waste mgt Commercial waste mgt Bulk waste mgt Hamersley Rec Centre Herb Graham Rec Centre Inglewood Pool Meals on Wheels Hamersley Golf Course Maylands Golf Course 	<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓ 	<ul style="list-style-type: none"> ✓ ✓ ✓
SUBIACO	<ul style="list-style-type: none"> Meals on wheels Parking Waste management 	<ul style="list-style-type: none"> ✓ ✓ 	✓
SWAN	<ul style="list-style-type: none"> Swan Child Care Centre Waste collection Swan Park Rec Centre Altona Park Rec Centre 	✓	<ul style="list-style-type: none"> ✓ ✓ ✓
VICTORIA PARK	<ul style="list-style-type: none"> Somerset Pool 		✓
VINCENT	<ul style="list-style-type: none"> Beatty Park Waste management 	✓	✓
WAGIN	No activity >\$200,000		
WYNDHAM - EAST KIMBERLEY	<ul style="list-style-type: none"> Kununurra airport 	✓	
YORK	No activity >\$200,000		

**COMPETITIVE NEUTRALITY
CATEGORY TWO COUNCILS**

LOCAL GOVERNMENT	Activity Reviewed	CN impl	CN not impl
BEVERLEY	No activity > \$200 000		
BODDINGTON	No activity > \$200 000		
BOYUP BROOK	No activity > \$200 000		
BRIDGETOWN- GREENBUSHES	Private subdivision works		✓
BROOKTON	No activity > \$200 000		
BROOMEHILL	No activity > \$200 000		
BRUCE ROCK	No activity > \$200 000		
CAPEL	No activity > \$200 000		
CARNAMAH	No activity > \$200 000		
CHAPMAN VALLEY			
CHITTERING	No activity > \$200 000		
COOLGARDIE			
COOROW	No activity > \$200 000		
CORRIGIN			
CRANBROOK	No activity > \$200 000		
CUBALLING	No activity > \$200 000		
CUE	No activity > \$200 000		
CUNDERDIN	No activity > \$200 000		
DALWALLINU	No activity > \$200 000		
DANDARAGAN	No activity > \$200 000		
DARDANUP	No activity > \$200 000		
DENMARK	No activity > \$200 000		
DONNYBROOK- BALLINGUP	Aged Hostel		✓
DOWERIN	No activity > \$200 000		
DUMBLEYUNG	No activity > \$200 000		
DUNDAS	No activity > \$200 000		
EAST FREMANTLE	No activity > \$200 000		
EXMOUTH	Exmouth Airport		✓
GNOWANGERUP	No activity >\$200 000		
GOOMALLING	No activity > \$200 000		
HALLS CREEK	No activity > \$200 000		
IRWIN	No activity > \$200 000		
JERRAMUNGUP			
KELLERBERRIN	No activity > \$200 000		
KENT	No activity > \$200 000		

LOCAL GOVERNMENT	Activity Reviewed	CN impl	CN not impl
KOJONUP	No activity > \$200 000		
KONDININ	No activity > \$200 000		
KOORDA	No activity > \$200 000		
KULIN	No activity > \$200 000		
LAKE GRACE	No activity > \$200 000		
LAVERTON	No activity > \$200 000		
LEONORA	No activity > \$200 000		
MEEKATHARRA	No activity > \$200 000		
MENZIES	No activity > \$200 000		
MINGENEW	No activity > \$200 000		
MOORA	No activity > \$200 000		
MORAWA	No activity > \$200 000		
MOSMAN PARK	Waste collection		✓
MT MAGNET	No activity > \$200 000		
MT MARSHALL	No activity > \$200 000		
MUKINBUDIN	No activity > \$200 000		
MULLEWA	No activity > \$200 000		
MURCHISON	No activity > \$200 000		
NANNUP	No activity > \$200 000		
NAREMBEEN	No activity > \$200 000		
NARROGIN (S)	No activity > \$200 000		
NGAANYATJARRAKU	No activity > \$200 000		
NORTHAM (S)	No activity > \$200 000		
NORTHAMPTON			
NUNGARIN	No activity > \$200 000		
PEPPERMINT GROVE	No activity > \$200 000		
PERENJORI	No activity > \$200 000		
PINGELLY	No activity > \$200 000		
PLANTAGENET	No activity > \$200 000		
QUAIRADING	No activity > \$200 000		
RAVENSTHORPE	No activity > \$200 000		
SANDSTONE	No activity > \$200 000		
SHARK BAY	No activity > \$200 000		
SERPENTINE- JARRAHDALE			
TAMBELLUP	No activity > \$200 000		
TAMMIN	No activity > \$200 000		
THREE SPRINGS	No activity > \$200 000		
TOODYAY	No activity > \$200 000		
TRAYNING	No activity > \$200 000		

LOCAL GOVERNMENT	Activity Reviewed	CN impl	CN not impl
UPPER GASCOYNE	No activity > \$200 000		
VICTORIA PLAINS	No activity > \$200 000		
WANDERING	No activity > \$200 000		
WAROONA	No activity > \$200 000		
WEST ARTHUR	No activity > \$200 000		
WESTONIA			
WICKEPIN	No activity > \$200 000		
WILLIAMS	No activity > \$200 000		
WILUNA	No activity > \$200 000		
WOODANILLING	No activity > \$200 000		
WONGAN-BALLIDU	No activity > \$200 000		
WYALKATCHEM	No activity > \$200 000		
YALGOO	No activity > \$200 000		
YILGARN	No activity > \$200 000		