



NEW SOUTH WALES GOVERNMENT

**Report to the National Competition Council
on the Application of National Competition Policy
in New South Wales
for the year ending December 1999**

September 2000

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1. Introduction

- 1.1 This Report is the NSW Government's fourth annual report to the National Competition Council on the Government's progress in implementing National Competition Policy. As required by clauses 3(10) and 5(10) of the Competition Principles Agreement, the Report outlines the implementation of Competitive Neutrality policy and progress in reforming legislation that restricts competition over the 12 months to 31 December 1999.
- 1.2 In April 1995, the Council of Australian Governments (COAG) ratified the National Competition Policy. The Policy is aimed at increasing consumer and business choice, improving efficiencies and creating an overall business environment in which to improve Australia's international competitiveness. Three Intergovernmental Agreements constitute the National Competition Policy. These Agreements are the:
- *Conduct Code Agreement;*
 - *Competition Principles Agreement;*
 - *Agreement to Implement National Competition Policy and Related Reforms.*
- 1.3 The specific components of the National Competition Policy are the:
- extension of the competition provisions of the *Trade Practices Act (Cth) 1974* to persons in each jurisdiction in the manner specified in the *Conduct Code Agreement;*
 - implementation of principles to facilitate the creation of competitive markets for public sector goods and services in the *Competition Principles Agreement;* and
 - implementation of reforms in the electricity, gas, water and road transport sectors identified in the *Agreement to Implement National Competition Policy and Related Reforms.*
- 1.4 Competition policy is of course only one part of the NSW Government's policy aims and its application is intended to sit alongside the Government's other economic, social and environment policy objectives. When applied, competition policy should be able to promote these other policy aims by creating a policy environment in which the costs and benefits of government regulation and service provision are subject to transparent assessment. Exposing public policy to this kind of transparency is essential for the efficient and effective allocation of resources for the benefit of the communities that governments serve.
- 1.5 Importantly, National Competition Policy provides an opportunity for governments to ensure that the principles of competition:
- promote increased consumer choice;
 - promote increased business choice and innovation;

- facilitate the efficient allocation of resources in the economy; and
- increase the opportunities for Australian business to effectively compete for international market share.

1.6 The NSW Government is committed to achieving these goals whilst ensuring that:

- competition policy is not implemented as an end in itself;
- all customers continue to have access to goods and services;
- goods and services are equitably distributed; and
- consumers are protected in the choices they make.

1.7 NSW is leading the way in implementing many of the reforms needed to make Australia more competitive. Achievements in this area must be seen in terms of the overall effect for the NSW and Australian economy.

2. Application of Competitive Neutrality

2.1 Application of Competitive Neutrality to Significant Government Business Enterprises

Requirements of the Agreement

- 2.1.1 The principle of competitive neutrality requires that GBEs operate without net competitive advantage in relation to other businesses as a result of their public ownership.
- 2.1.2 The Agreement (in Clauses 3(4) and 3(5)) requires governments to implement competitively neutral arrangements wherever the benefits to be realised from implementation outweigh the costs. In a few cases the costs of implementation will far outweigh the benefits. Overall it is generally believed that there are net economic and social benefits of implementing competitive neutrality principles. The onus is on the GBE to demonstrate that this is not the case for it to be eligible for exemption from the requirements of the Agreement.
- 2.1.3 Governments were required to prepare a policy statement on the application of competitive neutrality in their respective jurisdictions by June 1996 and to publish an annual report thereafter.
- 2.1.4 The Agreement (Clause 3(4)), with respect to significant GBEs classified as Public Trading Enterprises and Public Financial Enterprises by the Australian Bureau of Statistics, requires governments, where appropriate, to:
- adopt a corporatisation model; and
 - impose on GBEs full Commonwealth, State and Territory taxes or tax equivalent systems, debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees, and those regulations to which private sector businesses are normally subject on an equivalent basis to GBEs' private sector competitors.

Application in New South Wales

- 2.1.5 In New South Wales, GBEs include:
- Public Trading Enterprises (PTEs);
 - Public Financial Enterprises (PFEs); and
 - Some Non Budget Dependent General Government agencies.
- 2.1.6 Most of these GBEs are subject to the full rigour of New South Wales' Commercial Policy Framework (which is currently under review).

2.1.7 In June 1996, the NSW Government published its *Policy Statement on the Application of Competitive Neutrality*. The Statement made it clear that in New South Wales the onus is on a GBE to implement competitive neutrality principles unless it can show that the economic and social costs of implementation outweigh the economic and social benefits. Accordingly, a benefit-cost analysis, showing a net cost to the community, needs to be completed by GBEs that consider it inappropriate to implement these principles.

2.1.8 The requirements of clause 3(4) are being achieved through the application of the Commercial Policy Framework, including the corporatisation of a large number of 'commercial' sector agencies in New South Wales. Corporatisation follows the State Owned Corporation (SOC) model and the Commercial Policy Framework. (SOCs are discussed further in 2.1.11ff).

2.1.9 The forthcoming *NSW Government Policy Statement on Competitive Neutrality, 2000* will provide an update to the 1996 Statement in two key areas:

- formalisation of competitive neutrality complaints mechanisms; and
- finalisation of guidelines for the costing and pricing of NSW Government business outputs incorporating an 'avoidable cost' approach to pricing decisions. (This section is related to the forthcoming NSW Treasury Policy and Guidelines Paper: *Guidelines for Pricing of User Charges, 2000*. Accordingly, the two policy documents should be read in conjunction).

2.1.10 The Agreement requires all government agencies undertaking significant business activities in markets to act in a competitively neutral way. Consequently, the requirements in the forthcoming *Guidelines for Pricing of User Charges, 2000* extend to significant business units of General Government Agencies.

State Owned Corporations

2.1.11 The *State Owned Corporations Act (NSW) 1989* (amended in 1995) and the *State Owned Corporations Amendment Act (NSW) 1995* provide a comprehensive framework for the corporatisation of GBEs as proxy public companies called State Owned Corporations (SOCs). Those GBEs that have been and are intended to be subject to corporatisation are listed in **Table 2.1**.

2.1.12 There are two classes of SOC: the company SOC, and the statutory SOC. Both classes of SOC have a Board of Directors, share capital and a memorandum and articles of association like a public company limited by shares. Unlike a public company, however, the shareholders consist of the Treasurer and one other Minister (or potentially two or more Ministers for a company SOC).

2.1.13 Both statutory SOC and company SOC are subject to certain Commonwealth statutes. For example, Part IV of the *Trade Practices Act (Cth) 1994* applies to both entities. Company SOC are subject to the Corporations

Law. However, statutory SOCs are only subject to the provisions relating to officers' duties and liabilities.

The principal objectives of every SOC, regardless of class, are to operate:

- efficiently;
- in a way that maximises the net worth of the State's investment;
- in a socially responsible manner;
- in accordance with the principles of ecologically sustainable development; and
- with consideration of regional development.

Each of these objectives should be weighted equally in the SOC's operations.

Commercial Policy Framework

2.1.14 The Commercial Policy Framework has been guided by the corporatisation principles specified in 1988 by the NSW Steering Committee on Government Trading Enterprises in *A Policy Framework for Improving Performance of GTEs*. These principles are designed to ensure that the business environment faced by 'commercial' government organisations mimics that faced by private sector firms in a competitive market. Specifically, the Commercial Policy Framework principles require:

- the establishment of clear and non-conflicting objectives on the part of GBEs;
- the granting of managerial responsibility, authority and autonomy in the pursuit of such objectives;
- performance evaluation and accountability;
- the provision of rewards and sanctions commensurate with performance; and
- the establishment of competition and competitive neutrality.

2.1.15 All significant NSW GBEs that are monitored on a quarterly (Category 1) or half-yearly (Category 2) basis by NSW Treasury are considered to be in the Commercial Policy Framework (see **Table 2.1**). Note that this year there are no Category 2 GBEs.

The Framework encompasses the following elements:

- the application of commercially based targets for rates of return, dividends and capital structures;
- regular performance monitoring;
- the payment of State taxes and Commonwealth tax equivalents;
- the payment of risk-related borrowing fees;

- the explicit funding of "Social Programs" or Community Service Obligations (CSOs); and
- regulation equivalent to that faced by private sector competitors.

Each of these elements is discussed below.

2.1.16 GBEs fall into 3 categories:

- those GBEs that have been or are intended to be corporatised under the *State Owned Corporations Act 1989*;
- those GBEs that have not been corporatised or privatised, but are subject to the principles of competitive neutrality within the Commercial Policy Framework; and
- those GBEs that, on the basis of risk and materiality, have not been corporatised or made part of the Commercial Policy Framework.

Table 2.1: NSW GBEs that have been or are intended to be corporatised.

No.	Industry	Government Business Enterprise	ABS PTE ¹	Treasury Monitor ²	Cat. ³	Already Priv'n Corp'n	Date Priv'n/Corp'n	Comments	
1	Electricity	Advance Energy	x	x	1	x	1/3/96	Corporatised 1 July 2000. Subsidiary of Pacific Power.	
2		Australian Inland Energy	x	x	1	x	1/3/96		
3		Delta Electricity	x	x	1	x	1/3/96		
4		Energy Australia	x	x	1	x	1/3/96		
5		Great Southern Energy	x	x	1	x	1/3/96		
6		Integral Energy	x	x	1	x	1/3/96		
7		Macquarie Generation	x	x	1	x	1/3/96		
8		NorthPower	x	x	1	x	1/3/96		
9		Pacific Power	x	x	1				
		Eraring Energy							
		Power Coal Pty Ltd	x						
10	Snowy Mountains Hydro Electricity Authority			3			Jointly owned with Victoria and the Commonwealth.		
11	TransGrid	x	x	1	x	1/12/98			
12	Finance	Axiom Funds Management Corporation			3	x	16/5/97		
13		Government Insurance Office (GIO)		x	4	x	16/7/92		
14		NSW Treasury Corporation (TCorp)	PFE	x	1				
15		State Bank of NSW		x	4	x	31/12/94		
16	Gaming & Recreation	Eastern Creek Raceway		x	1		1/1/97	Site leased on 29/11/96	
17		Newcastle International Sports Centre Trust	x		3				
18		Newcastle Showground & Exhibition Centre Trust	x		3				
19		NSW Lotteries	x	x	1	x			
20		Parramatta Stadium Trust	x	x	1				
21		State Sports Centre Trust	x	x	3				
22		Sydney Cricket & Sports Ground Trust		x	1				
23		Sydney Opera House Trust	x		1				
24		Totalizator Agency Board of NSW (TAB)	x	x	4	x			6/98
25		Wollongong Sportsground Trust	x	x	1				
26	Zoological Parks Board of NSW	x	x	1					
27	Housing	Aboriginal Housing Office		x	1				
28		City West Housing Pty Ltd	x	x	1				
29		Department of Housing	x	x	1				
30		Home Purchase Assistance Authority		x	1				
31		Office of Community Housing		x	1				
32		Teacher Housing Authority of NSW			3				

No.	Industry	Government Business Enterprise	ABS PTE ¹	Treasury Monitor ²	Cat. ³	Already		Date Priv'n/Corp'n	Comments
						Priv'n	Corp'n		
33	Ports & Waterways	Darling Harbour Authority	x	x	1				To be absorbed into Sydney Harbour Foreshore Authority in 2001. Abolished. Functions transferred to Waterways Authority.
34		Marine Ministerial Holding Corporation		x	1				
35		Newcastle Port Corporation	x	x	1		x	1/7/95	
36		Port Kembla Port Corporation	x	x	1		x	1/7/95	
37		Sydney Ports Corporation	x	x	1		x	1/7/95	
38	Transport	Freight Rail Corporation	x	x	1		x	1/7/96	
39		Rail Access Corporation	x	x	1		x	1/7/96	
40		Rail Services Australia	x	x	1		x	1/7/98	
41		State Rail Authority of NSW	x	x	1				
42		State Transit Authority	x	x	1				
43	Water	Broken Hill Water Board	x		3				To be absorbed into Australian Inland Energy.
44		Cobar Water Board	x		3				
45		Coleambally Irrigation	x	x	1	x		9/6/00	
46		Fish River Water Supply Authority	x		1				
47		Hunter Water Corporation	x	x	1		x	1/1/92	
48		Murrumbidgee Irrigation	x	x	1	x		12/2/99	
49		Sydney Water Corporation	x	x	1		x	1/1/95	
50		Sydney Catchment Authority	x	x	1				
51	Misc	Chipping Norton Lake Authority			3				Business of Sydney Fish Market Pty Ltd sold & site leased on 31/10/94.
52		Department of Public Works and Services		x	1				
53		First Australian National Mortgage Acceptance		x	5				
54		Fish Marketing Authority			3				
55		Honeysuckle Development Corporation		x	1				
56		Jenolan Caves Reserve Trust	x		3				Commercial Advisory Board has been established. Landcom has been reviewed for further restructuring.
57		Landcom	x	x	1				
58		Land and Property Information NSW		x	1				
59		Lord Howe Island Board		x	3				
60		Public Trustee		x	1				
61		Registry of Births, Deaths and Marriages		x	1				
62		State Forests of NSW		x	1				
63		Sydney Harbour Foreshore Authority		x	1				
64		Superannuation Administration Corporation		x	1		x	26/7/99	
65		Waste Service NSW	x	x	1				

The Key to Table 2.1 is as follows:

- ¹ Public Trading Enterprises (PTEs) and Public Financial Enterprises (PFEs) as defined by the Australian Bureau of Statistics (ABS) in *Government Finance Statistics Australia: Concepts, Sources and Methods*.
- ² GBEs monitored by Treasury on a quarterly or half-yearly basis are within the Commercial Policy Framework (CPF).
- ³ On the basis of a risk and materiality assessment, Treasury has identified five financial monitoring programs. These are categorised as follows:
 - (1) Quarterly reporting and monitoring for:
 - all State Owned Corporations (SOCs);
 - all dividend paying GBEs;
 - those GBEs which are assessed as having the potential in the medium term to become dividend paying; and
 - high risk/materiality GBEs.
 - (2) Half-yearly monitoring for GBEs in the medium risk/materiality category.
 - (3) Portfolio monitoring exclusively by the relevant Minister, with relatively low risk exhibited.
 - (4) Post-privatisation monitoring for GBEs which are no longer owned by the Government but in respect of which the Government may bear ongoing financial risks which require identification and management. Frequency of monitoring will vary depending upon circumstances of sale and the right of the Government to access information. Major privatised GBEs are to be reviewed at least on a quarterly basis.
 - (5) Businesses where the State has a minority interest as a shareholder are monitored quarterly, assuming that the shareholding is material and/or the business is exposed to particular trading/operating risks.

Performance Targets

2.1.17 GBE boards and management have clear performance targets, against which performance is assessed. These are set out in an annual contractual agreement between the Government and the GBE called a Statement of Financial Performance (SFP), or a Statement of Corporate Intent (SCI) for those GBEs that are SOCs.

2.1.18 The performance targets focus on commercially based capital structures, return on capital and dividends as well as the economic and business assumptions that underlie the financial projections and targets. The first such agreements were entered into in 1993.

(a) Capital Structures

2.1.19 The Government has sought to ensure that GBEs' balance sheets are commercially sound and consistent with competitive neutrality requirements. These competitive neutrality requirements include the need for a target capital structure so that an appropriate mix of debt and equity may be achieved over time.

2.1.20 The Government's 'Capital Structure Policy', which was introduced in 1994, establishes target capital structures for GBEs on a case-by-case basis. The optimal target debt level is determined as that which:

- supports a good investment grade credit rating (ie. 'A' or above) over the long term (generally five years);
- enables the financing of an approved capital expenditure program having regard to the current phase of the GBE's investment cycle;
- is capable of being repaid within a reasonable period; and
- provides flexibility for relevant contingencies.

2.1.21 The methodology for establishing a target capital structure involves a number of steps:

- development of a business profile;
- review of business plans and forecasts;
- analysis of business risks;
- construction of a model to analyse cash flows;
- sensitivity analysis of the impact of key variables on the cash flows; and
- determination of a notional credit rating applicable to the GBE as a stand-alone entity, based on credit rating criteria.

2.1.22 Determining the optimal capital structure assists GBEs in making wise decisions regarding future investments. The use of a target capital structure provides a measure of the true cost of capital to be determined for each GBE. This ensures that future investment decisions are made with regard to the

true opportunity cost of capital, rather than being incorrectly influenced by the method of financing used for a project and/or an existing sub-optimal debt-to-equity structure that the GBE may be currently employing.

(b) Return on Capital – Shareholder Value Added

- 2.1.23 Once the correct opportunity cost of capital is determined (on the basis of an 'optimal' capital structure), management can then determine which projects/investments are attaining a commercial return.
- 2.1.24 Treasury uses shareholder value added (SVA) analysis to set financial targets for the major GBEs. It is also currently investigating the use of total factor productivity (TFP) to assist in separating the financial performance of GBEs into productivity, price and volume components. TFP measures relate a weighted index of outputs (weighted by revenue shares) to an aggregate measure of inputs (weighted by cost shares).
- 2.1.25 Shareholder value added (SVA) is an estimate of an entity's true economic profit from employing capital. SVA is calculated as net operating profit after taxes (NOPAT) less a capital charge. The latter is evaluated by multiplying the cost of capital (WACC) by the total value of capital employed (K). The cost of capital is the minimum rate of return on capital invested required to compensate debt and equity investors for bearing risk. It is calculated using the weighted average cost of capital (WACC) methodology, which takes into account the mix and cost of debt and equity used to fund the entity.
- 2.1.26 The net present value (NPV) of future SVAs is equal to Market Value Added (MVA). MVA, therefore, represents the amount of an entity's market value (or NPV of future cash flows) which is above the capital invested. Shareholder value is created where the overall cash flow or NOPAT of the business *exceeds* the cost of capital invested. Conversely, it is destroyed when the opposite is true.
- 2.1.27 SVA objectively measures the creation of value to its shareholder (who is ultimately the NSW taxpayer) by directly accounting for the cost of capital to a GBE. Not only does SVA offer a superior means of measuring the overall financial performance of a GBE, but it can also be used *within a GBE* so that all employees can better assess their contribution to the value of their organisation as well as offering an incentive to increase its value.
- 2.1.28 A growing number of GBEs now provide SVA targets in their SFPs or SCIs. The date of SVA implementation is shown in **Table 2.2**.

Table 2.2: GBEs using shareholder value added analysis to set financial targets.

Commenced 1997-98:	
Advance Energy	Rail Access Corporation
Australian Inland Energy	State Transit Authority
EnergyAustralia	Hunter Water
Great Southern Energy	Sydney Water
Integral Energy	Port Kembla Ports
NorthPower	Newcastle Ports
Macquarie Generation	Sydney Ports
Delta Electricity	Landcom
TransGrid	State Forests of NSW
Pacific Power	Waste Service
Freight Rail Corporation	
Commenced 1998-99:	
Department of Housing	NSW Lotteries
Department of Public Works	Rail Services Australia
Land and Property Information NSW	Registry of Births Deaths & Marriages
Marine Ministerial Holding Corporation	Taronga Park Zoo
	Zoological Parks Board of NSW
Commenced 1999-2000:	
Sydney Harbour Foreshore Authority	
Starting 2000-01:	
Parramatta Sports Ground Trust	Fish River Water Supply
Sydney Cricket & Sports Ground Trust	Sydney Catchment Authority

(c) Financial Distributions (Dividends)

2.1.29 If the capital structure and the return on capital are appropriate, then according to the Financial Distribution Policy, dividends should broadly reflect private sector practice.

2.1.30 A target dividend payment is negotiated as part of the process of developing a SFP (or SCI) before the commencement of the financial year. Based on the actual audited results, the Board of the GBE makes a recommendation on the dividend to be paid to the Consolidated Fund. The final decision on this is

influenced by a range of factors, such as: liquidity, capital expenditure requirements, pricing policy and capital structure.

Performance Monitoring

2.1.31 NSW Treasury has been undertaking, since the start of the 1990s, regular financial monitoring of significant GBEs from a shareholder perspective. This acts as a surrogate for the performance assessment usually done by the debt and equity markets. It requires GBEs to provide Treasury with quarterly reports of performance against the targets established in their SCI/SFP supported by information such as business plans, operating budgets, cash flow statements, income and expenditure statements, balance sheets and management accounting data.

2.1.32 GBEs also report, on an exception basis, any risks in meeting targets which arise throughout the financial year. This acts as an early warning of problems which might arise, so that appropriate action may be taken where necessary.

Payment of Taxes and Tax Equivalents

(a) State Taxes

2.1.33 As required by the Commercial Policy Framework, since 1997-98 all GBEs have been directly paying State taxes. This requirement puts them on a competitively neutral footing with private sector businesses in regard to State taxes.

(b) Commonwealth Tax Equivalents

2.1.34 At the March 1994 Premiers' Conference it was agreed in principle that States and Territories would impose uniform tax-equivalent regimes (TERs) on all GBEs by 1997, while the Commonwealth would amend its income and sales tax legislation to unambiguously exempt State enterprises from Commonwealth tax liabilities.

2.1.35 All major NSW GBEs, since 1 July 1994, have been progressively required to make tax-equivalent payments to the Consolidated Fund. Tax-equivalent regimes were introduced for most other GBEs during 1996-97.

Debt Guarantee Fees

2.1.36 GBEs benefit from the Government's Triple-A credit rating by virtue of their Government ownership and are able to obtain borrowings through Treasury Corporation (TCorp) more cheaply than comparable private sector firms.

2.1.37 Since 1990, GBEs with Government-guaranteed borrowings have been required to pay a credit-rating-based fee to the Consolidated Fund. The scheme is intended to:

- make up the difference between the interest paid by GBEs and what they would have paid had they been in the private sector;
- ensure competitive neutrality with private sector businesses of similar risk, which lack Government backing and face higher borrowing costs;
- correct any distortions in GBE investment and pricing decisions;
- encourage better debt-management practices by GBEs by making them aware of the full cost of borrowing; and
- compensate the Government for the financial risk of guaranteeing debt repayment by GBEs.

2.1.38 The guarantee fee applies to all commercial Government agencies with guaranteed borrowings exceeding \$1 million. They reflect the difference between the Government's borrowing rate and the assessed 'stand-alone' credit rating of the particular GBE. Guarantee fees vary according to each organisation's 'stand-alone' credit rating. The agency's credit rating is inversely proportional to the guarantee fee, that is, the lower the GBE's stand-alone credit rating, the higher the fee.

Equivalent Regulation

2.1.39 Many Government businesses gain exemptions from certain State legislation and regulations as a result of their status as an entity of the Crown or statutory authority. When a Government business is corporatised as a SOC, it automatically loses this status and therefore its exemption/s.

2.1.40 SOCs are subject to certain provisions of the *Federal Corporations Law* dealing with duties and liabilities as if the SOC were a public company limited by shares, and Part IV of the *Federal Trade Practices Act 1974* dealing with restrictive trade practices.

2.1.41 The review and reform, under clause 5 of the CPA, of legislation which unjustifiably restricts competition is closely related to the competitive neutrality principle of imposing private sector equivalent regulation on Government businesses. New South Wales is subjecting legislation of uncertain competitive standing to a comprehensive public benefit test and taking remedial action where legislation is shown not to be in the public interest (ie. where costs outweigh benefits and/or less competition-restricting methods of achieving the Government's objectives are available).

2.1.42 Consistent with clause 5 (3), New South Wales has developed a timetable for the review, and where appropriate, the reform of all existing legislation that restricts competition.

Social Program Policy

2.1.43 The Government's Social Program Policy will be the main vehicle for meeting its social justice objectives through transparent payments for social programs from the Consolidated Fund to Government businesses.

2.1.44 The Social Program Policy explicitly recognises that, in pursuing its core social responsibilities, the Government may wish to use Government businesses to achieve certain social justice objectives. The Policy has been carefully designed to identify social programs (SPs) so that the commerciality of the Government business is not at risk by it being required to meet certain social objectives of the Government through the provision of services.

2.1.45 The key objectives of the Social Program (SP) Policy are to:

- provide a framework for the effective separation of commercial and non-commercial activities of Government businesses so that management may be given clear and non-conflicting objectives, thus enabling it to be held accountable for both commercial performance and the delivery of SPs;
- ensure social expenditures by Government businesses are subject to identified Budget funding, thereby making them transparent and enhancing Parliamentary accountability;
- provide a framework to improve the effectiveness of SP expenditures through the application of appropriate review and evaluation processes.

2.1.46 The Policy sets out a framework whereby a Government business is compensated for the costs involved in undertaking a SP for the Government. The delivery of the SP and the payment for its performance are set out in a contract between the portfolio Minister and the Government business. The portfolio Ministers thus undertake the role of 'purchaser' and the GBEs that of contractor.

Financial Appraisal Guidelines

2.1.47 In July 1997, the NSW Treasury issued the Financial Appraisal Guidelines to assist in the financial appraisal of the following projects:

- capital projects of GBEs and SOCs; and
- all projects of General Government sector agencies and Commercial sector agencies which involve a financing decision, including projects involving joint public/private sector infrastructure provision.

2.1.48 The Guidelines outline the necessary steps in preparing a financial appraisal, including:

- defining the objectives and the scope of the project;
- identifying alternative options which meet the objectives of the project;

- identifying and measuring cashflows and their sensitivity for each of the options;
- selecting an appropriate discount rate;
- calculating summary measures of commercial merit for each option; and
- seeking independent review of the appraisal.

2.1.49 The Guidelines help improve the decision making process for significant projects undertaken by Government organisations.

2.2 Application of Competitive Neutrality to Significant Business Activities of General Government Agencies

Requirements of the Agreement

2.2.1 Clause 3(5) of the Agreement applies to agencies that are not significant GBEs within the meaning of Clause 3(4), but undertake significant business functions as part of a broader range of functions. Clause 3(5) indicates that with respect to these business activities, the Parties will:

- where appropriate, implement the principles outlined in clause 3(4); or
- ensure that the prices charged for goods and services will take account, where appropriate, of full Commonwealth or State taxes or tax-equivalent regimes, debt guarantee fees and equivalent regulation, and reflect full cost attribution for these activities.

Application in New South Wales

2.2.2 In New South Wales, significant business activities of General Government agencies include those significant business activities undertaken by both:

- small non-budget-dependent General Government agencies; and
- budget-dependent General Government agencies.

2.2.3 The NSW Treasury has developed costing and pricing principles for General Government agencies that compete (or potentially may compete) with private sector entities.

2.2.4 The *NSW Treasury Policy and Guidelines Paper: Guidelines for Pricing of User Charges* (referred to above in 2.1.9) will be released in 2000 as an update of guidelines released to agencies in 1997. It endorses an 'avoidable cost' pricing approach under which the cost base of the business unit only consists of the costs that the business unit would not incur (i.e. avoid) if it were to cease operations.

2.2.5 The avoidable cost approach is a more efficient way of pricing agency business outputs. Where non-commercial agencies have assets with spare capacity, the avoidable cost method will allow such capacity to be used commercially rather than potentially lie idle. It can therefore lead to a fuller use of resources and provide agencies with greater flexibility when determining prices for business outputs. Overall, it more closely replicates the pricing flexibility of competing private businesses.

2.2.6 Significant business activities of General Government agencies may be exempt from applying the principles where they can demonstrate that the cost of applying the principles exceeds the benefits of competitively neutral pricing.

- 2.2.7 Broadly the aim is for agencies to recover, in the short term, their marginal costs. Pricing below marginal costs will be deemed as predatory and potentially anti-competitive according to Part IV of the *Trade Practices Act (Cth) 1974*.
- 2.2.8 In determining a competitively neutral cost base, all input costs and benefits accruing from government ownership are to be included. Costs will include, among other things, employee costs, materials, maintenance, depreciation, taxes, and a return on capital.
- 2.2.9 A listing of the NSW General Government agencies required to implement the pricing principles is provided below in **Table 2.3**. The agencies supply goods or services subject to 'user charges' as defined by the Australian Bureau of Statistics.

Table 2.3. NSW General Government Sector Agencies required to implement pricing principles.

No.	Government Purpose (ABS) ¹	Government Agency/Activity	GGE (ABS) ²	Treasury Monitor ³	User ⁴ Charges	Sig ⁵	Min ⁶
1	(01) General Public Services	State Records (formerly Archives Authority of NSW)	x	x	x		x
2		Audit Office of NSW	x	x	x	x	
3		Cabinet Office	x	x			
4		Government Actuary	x				
5		Independent Commission Against Corruption	x	x	x		x
6		Internal Audit Bureau	x				
7		Legislature	x	x	x		x
8		Local Government, Dept of	x	x	x		x
9		Ombudsman's Office	x	x	x		x
10		Parliamentary Counsel's Office	x	x			x
11		Premier's Department	x	x	x	x	
12		State Electoral Office	x	x	x		x
13		State Electoral Office - Statutory & Industrial Ballots and Local Government Elections	x	x			
14		Treasury	x	x	x	x	
15	(03) Public Order & Safety	Attorney General's Dept	x	x	x	x	
16		Rural Fire Service	x	x	x		x
17		Corrective Services, Dept of	x	x	x	x	
18		Crime Commission, NSW	x	x	x		x
19		Director of Public Prosecutions, Office of	x	x			x
20		Fire Brigades, NSW	x	x	x	x	
21		Judicial Commission of NSW	x	x	x		x
22		Juvenile Justice, Dept of	x	x	x		x
23		Law Reporting, Council of	x				
24		Legal Aid Commission	x	x	x	x	
25		Legal Practitioners Admission Board	x				
26		Police Integrity Commission	x	x			
27		Police, Ministry for	x	x	x		x
28		Police Service, NSW	x	x	x	x	
29	State Emergency Service	x	x	x		x	
30	(04) Education	Adult Migrant English Service	x	x			
31		Board of Studies, Office of the	x	x	x	x	
32		Department of Education and Training	x	x	x	x	
33	(05) Health	Health Care Complaints Commission	x	x	x		x
34		Health, Dept of	x	x	x	x	
35	(06) Social Security & Welfare	Aboriginal Affairs, Dept of	x	x			
36		Ageing and Disability Department	x	x			
37		Community Services Commission	x	x	x		x
38		Community Services, Dept of	x	x	x	x	
39		Ethnic Affairs Commission	x	x	x	x	
40		Home Care Service of NSW	x	x	x	x	
41		Women, Dept for	x	x			
42	(07) Housing & Community Amenities	Coastal Council of NSW	x				
43		Crown Land Homesites					
44		Environmental Trusts	x	x			
45		Environment Protection Authority	x	x	x		x
46		Lake Illawarra Authority	x				
47		Ministerial Development Corporation	x				
48		Ministry for Urban Infrastructure Management (abolished 8/4/99)	x	x			
49		Sydney Region Development Fund	x	x			
50		Upper Parramatta River Catchment Trust	x				
51		Urban Affairs and Planning, Dept of	x	x	x	x	

No.	Government Purpose (ABS) ¹	Government Agency/Activity	GGE (ABS) ²	Treasury Monitor ³	User ⁴ Charges	Sig ⁵	Min ⁶
52	(08) Recreation & Culture	Anzac Memorial Building, Trustees of	x				
53		Art Gallery of NSW	x	x	x	x	
54		Arts, Ministry for the	x	x	x		x
55		Sydney Entertainment Centre	x		x		x
56		Australian Museum	x	x	x	x	
57		Bicentennial Park Trust	x	x	x		x
58		Casino Control Authority	x	x	x		x
59		Centennial Park and Moore Park Trust	x	x	x	x	
60		Film and Television Office, NSW	x	x	x		x
61		Gaming and Racing, Dept of	x	x	x		x
62		Greyhound Racing Authority (formerly Greyhound Racing Control Board)	x	x			
63		Harness Racing Authority of NSW	x	x			
64		Heritage Office	x	x			
65		Historic Houses Trust of NSW	x	x	x	x	
66		Museum of Applied Arts and Sciences	x	x	x	x	
67	National Parks and Wildlife Service	x	x	x	x		
68	Olympic Coordination Authority	x	x	x	x		
69	Opera House Trust	x	x	x	x		
70	Royal Botanic Gardens and Domain Trust	x	x	x		x	
71	SOCO	x	x	x	x		
72	Somersby Park Pty Ltd (sold in July 2000; will not be reported in future)	x					
73	Sport and Recreation, Dept of	x	x	x	x		
74	State Library of NSW	x	x	x	x		
75	State Sports Centre Trust	x	x	x	x		
76	(09) Fuel & Energy	Coal Compensation Board	x	x			
77		Ministry of Energy and Utilities	x	x	x		x
78		Mineral Resources, Dept of	x	x	x	x	
79		Mines Rescue Board	x				
80		Mines Subsidence Board	x				
81	Sustainable Energy Development Authority	x	x				
82	(10) Agriculture, Forestry, Fishing & Hunting	Agriculture, Dept of	x	x	x	x	
83		Agricultural Scientific Collections Trust	x				
84		Banana Industry Committee	x				
85		Dairy Corporation, NSW (abolished 1/7/99)	x	x	x	x	
86		Dairy Industry Conference, NSW	x				
87		Dumaresq-Barwon Border Rivers Commission	x				
88		Fisheries, NSW	x	x	x	x	
89		Hunter Catchment Management Trust	x				
90		Land and Water Conservation, Dept of	x	x	x	x	
91		Luna Park Reserve Trust	x	x	x		x
92		Soil Business	x				
93		Surveyors Board	x				
94		State Valuation Office (part of Dept of Public Works & Services since 1/4/99)	x	x	x	x	
95		Marketing Boards: NSW Grains	x				
96	MIA Citrus Fruit	x					
97	Rice	x					
98	Wine Grapes	x					
99	Meat Industry Authority (abolished 4/8/00; functions transferred to Safe Food Production NSW)	x	x	x		x	
100	Rural Assistance Authority	x	x				
101	Safe Food Production NSW	x	x	x	x		
102	Tick Control, Board of	x					
103	Veterinary Surgeons Board NSW	x					
104	Wild Dog Destruction Board	x					
105	(11) Mining, Mineral Resources, Manufacturing & Construction	Architects of NSW, Board of	x				
106		Building & Construction Industry - Long Service Payments Corporation	x	x			
107		Public Works and Services, Department of	x	x	x	x	

No.	Government Purpose (ABS) ¹	Government Agency/Activity	GGE (ABS) ²	Treasury Monitor ³	User ⁴ Charges	Sig ⁵	Min ⁶
108	(12) Transport & Communications	Air Transport Council	x				
109		Ministry for Forests & Marine Administration (abolished 8/4/99)	x	x			
110		Marine Ministerial Holding Corporation (abolished 1/7/00)	x	x	x	x	
111		Motor Accidents Authority	x	x			
112		Olympic Roads and Transport Authority	x	x	x	x	
113		Roads and Traffic Authority	x	x	x	x	
114		Tow Truck Authority	x				
115		Transport, Dept of	x	x	x	x	
116		Waterways Authority	x	x	x	x	
117	(13) Other Economic Affairs	Fair Trading, Dept of	x	x	x	x	
118		Registry of Encumbered Vehicles	x	x	x	x	
119		Financial Counselling Trust Fund	x				
120		Financial Institutions Commission, NSW (abolished 26/11/99; will not be reported in future)	x				
121		Independent Pricing & Regulatory Tribunal	x	x	x		x
122		Industrial Relations, Dept of	x	x	x		x
123		Insurance Ministerial Corporation	x	x	x		x
124		Insurers Contribution Fund	x				
125		Insurers Guarantee Fund	x				
126		Premiums Adjustment Fund	x				
127		Protective Commissioner	x				
128		State and Regional Development, Dept of	x	x	x		x
129		Tourism NSW	x	x	x	x	
130		Vocational Education & Training Accreditation Board	x				
131		WorkCover Authority	x	x	x	x	
132		Worker's Compensation (Dust Diseases) Board	x				
133		Workmen's Compensation (Broken Hill) Act - Joint Committee	x				
134	(14) Other Purposes	Crown Transactions	x	x			

Key to Table 2.3:

- 1 Categories as per the Australian Bureau of Statistics (ABS) in *Government Finance Statistics Australia: Concepts, Sources and Methods*.
- 2 General Government Enterprises (GGEs) as defined by the ABS in *GFS Australia: Concepts, Sources and Methods*.
- 3 These agencies/activities are monitored by Treasury on the basis of a risk and materiality assessment.
- 4 A user charge is a voluntary payment to a PTE or a general government entity paid by a consumer for services provided. It is of a commercial rather than a regulatory nature and provides an identifiable benefit to the payer. (ABS: *GFS Australia: Concepts, Sources and Methods*). The existence of user charges is a broad indicator of a business activity.
- 5 Significant > \$2 million user charges revenue p.a. as based on 2000-01 Budget estimates.
- 6 Minor < \$2 million user charges revenue p.a. as based on 2000-01 Budget estimates.

2.3 Application to Local Government

2.3.1 In its *Policy Statement on the Application of National Competition Policy to Local Government* published in June 1996, the Government set out how the principle of competitive neutrality would be applied to local government in NSW. The Policy Statement was prepared in consultation with local government and makes a series of commitments with respect to the ongoing implementation of competition reforms.

2.3.2 The Government has also issued the following guidelines for the assistance of councils:

- *Competitive Tendering Guidelines* (January 1997);
- *Pricing and Costing for Council Businesses: A Guide to Competitive Neutrality* (July 1997); and
- *Guidelines on the Management of Competitive Neutrality Complaints* (November 1997).

2.3.3 The Government also conducted workshops across NSW and continues to provide assistance, via the Department of Local Government, to councils in applying NCP principles.

2.3.4 As indicated in the Policy Statement, different requirements apply to council businesses depending on whether they are category 1 or category 2 businesses. Category 1 businesses have an annual sales turnover of \$2 million and above, while category 2 businesses have a turnover of less than \$2 million.

2.3.5 As category 2 businesses are less likely to have a significant distortionary impact on resource allocation at either State or national levels, the requirements applying to these businesses are less strict. For example, councils can determine the extent to which category 2 business activities are to be separated from its associated mainstream activities. Similarly, councils are only required to apply full cost attribution where practicable. In contrast, these requirements are mandatory for category 1 businesses. However, in all other respects (e.g. making subsidies explicit and complying with the same regulation as the private sector) the requirements are the same.

2.3.6 Previous NSW Government annual reports to the NCC have indicated a high level of compliance in applying competitive neutrality principles to council businesses.

2.4 Reciprocal Charging Arrangements between State and Local Government Businesses

Requirements of the Agreement

2.4.1 Under the principle of competitive neutrality, there is a requirement to ensure there is competitive neutrality between State, Local Government and privately owned businesses selling into markets

Application in New South Wales

2.4.2 Under existing arrangements between State and Local Government businesses, the State benefits from a variety of council rate exemptions for its GBEs. Similarly, Local Government businesses benefit from some services either provided at no charge by GBEs and SOCs or on a less than full-cost-recovery basis.

2.4.3 A Reciprocal Charging Sub-Committee has been formed to undertake a Review into the Reciprocal Charging Arrangements between State and Local Government Businesses.

2.4.4 The primary focus of the Review is to inventory existing concessional charging arrangements between State and Local Government businesses, assess them with regard to charging principles and set a timetable for phasing in a reciprocal charging regime and removing the concessional arrangements.

2.4.5 The Committee has developed the broad principles upon which a reciprocal charging regime would be based and has compiled indicative data regarding the likely financial impact of making State GBEs and Local Government businesses subject to such a regime. A more detailed assessment of the financial impact is scheduled for 2000-01.

2.5 Competitive Neutrality Complaints Mechanism

Requirements of the Agreement

2.5.1 Clause 3(8) of the Agreement requires governments to include a complaints mechanism in their Policy Statements on Competitive Neutrality and publish allegations of non-compliance in their annual reports.

Application in New South Wales

2.5.2 This section deals with the Government's complaints systems and details of complaints received except in relation to Local Government. Local Government complaints and complaint handling arrangements are addressed below at 2.5.24.

2.5.3 An actual or potential competitor of a GBE may wish to make a complaint if it perceives it is being adversely affected or being denied a market opportunity because of a GBE's net competitive advantage resulting solely from its public ownership.

The arrangements outlined in the *Policy Statement on the Application of Competitive Neutrality* consisted of two stages:

1. the party lodging a complaint is to approach the relevant government agency to clarify and attempt to resolve the matter (this first step also acts as a sieve to eliminate trivial complaints or misunderstandings); and
2. if necessary, to refer the matter for independent assessment by a third-party complaints mechanism wherever the complainant is not satisfied with the response of the agency involved.

2.5.4 Previously, interim arrangements existed whereby all stage-two complaints were to be investigated by IPART under section 9 (1)(b) of the *Independent Pricing and Regulatory Tribunal Act 1992*.

2.5.5 In June 2000 the Government introduced a Bill into Parliament to formally establish stage two of the complaints mechanism. The *Independent Pricing and Regulatory Tribunal and other Legislation Amendment Bill 2000* establishes a dual mechanism for dealing with competitive neutrality complaints against significant government businesses which involves the IPART and the State Contracts Control Board (the SCCB). The relevant sections of the Act commenced on 17 July 2000.

2.5.6 The SCCB will investigate complaints that a government business has failed to comply with competitive neutrality principles in relation to tender bids made by the business in response to an invitation for tenders. The IPART will deal with other complaints. Complaints involving local council businesses will continue to be dealt with separately under the arrangements established by the Department of Local Government, except where the complaint also involves a State Government business.

2.5.7 Under the new arrangements the Premier may refer to the SCCB/IPART, for investigation and report, a complaint about a significant government business, with respect to:

- (a) a failure of the business to comply with established competitive neutrality principles; or
- (b) the inappropriate manner in which competitive neutrality principles are applied by or to the business.

2.5.8 The IPART/SCCB report is to contain a statement of its findings and recommendations about the complaint. Where a complaint is upheld, the report will also contain a statement about:

- (a) any need for any changes to the conduct of the government business to ensure future compliance with competitive neutrality principles; and
- (b) any policy changes that should be considered by the Government.

2.5.9 The Premier may also refer to the IPART a matter relating to any adverse or unforeseen consequences of applying competitive neutrality principles to a public authority or class of public authorities for investigation and report. This was foreshadowed in the Government's 1996 Policy Statement on competitive neutrality.

2.5.10 The IPART/SCCB are required to use their best endeavours to complete an investigation and report within 10 weeks after receiving a complaint. Within 8 weeks of receiving an IPART/SCCB report, the portfolio Minister is required to prepare a written response to the report. The response must include a statement as to whether or not the recommendations have been adopted or are proposed to be adopted, and must include a statement of the reasons why any recommendation will not be adopted.

2.5.11 IPART/SCCB reports and the portfolio Minister's response are to be made publicly available.

2.5.12 An updated policy statement on competitive neutrality and pricing and costing guidelines will be released in 2000 to support the new arrangements.

Complaints about Government Businesses

2.5.13 During 1999 The Cabinet Office received three complaints concerning alleged breaches of competitive neutrality principles by government businesses. A summary of these complaints is provided below.

The University of Newcastle's Forum Fitness Centre

2.5.14 Two complaints were received during 1999 alleging that the University's Sports and Aquatic Centre offered subsidised pool entry and memberships to the general public. NSW notes that universities do not fit neatly within the general category of a State Government business. In fact, Crown Solicitor's advice available to NSW suggests that they are not caught by clause 3(1) of the Competition Principles Agreement. However, to facilitate the handling of these complaints in a manner consistent with the spirit of competitive neutrality principles, The Cabinet Office referred these matters to the University of Newcastle for consideration and response direct to the complainants.

Macquarie University Sports Club

2.5.15 The complainant (**Active Fitness Centre**) alleged that the University's Sports Club was selling subsidised memberships to the general public. Consistent with the approach taken to the complaints against the University of

Newcastle, The Cabinet Office referred the complaint to the University of Newcastle for consideration and response direct to the complainant.

Rail Freight Corporation

2.5.16 A complaint was received from a party who fund and advise a private sector competitor of the NSW Government-owned Rail Freight Corporation (FreightCorp). The complainant wrote to the Premier in September 1999 alleging that FreightCorp receives the following benefits as a result of its public sector ownership:

- preferential access to strategic assets including port and metropolitan rail terminals;
- exclusive receipt of payments for CSOs;
- payments for CSOs which are unconnected to the costs incurred and services delivered;
- the Department of Transport tends to act as an agent of FreightCorp rather than as a neutral regulator; and
- the ability to price without regard for rates of return.

2.5.17 The Premier's response noted that the Department of Transport had commenced a review of FreightCorp's CSO arrangements and that it was expected to address a number of the issues raised in the complainant's letter. Consequently, the Premier deferred a decision on the IPART reference until the review was complete and the Government had considered its recommendations.

2.5.18 To assist the review, the Department of Transport engaged consultants Booz Allen and Hamilton (BAH) to conduct a thorough and independent assessment of FreightCorp's CSO arrangements.

2.5.19 Consultants BAH affirmed the general understanding that an exclusive contract with a purchaser of freight services (i.e. the Minister for Transport) does not, on face value, contravene competitive neutrality principles. The key requirement for competitive neutrality is of course to ensure that CSO arrangements are fully transparent. BAH found that there was room for improvement in this area and made recommendations aimed at achieving greater clarity of purpose and transparency in relation to CSO arrangements.

2.5.20 The Government is presently working towards implementation of BAH's recommendations to ensure that CSO arrangements are transparent and that there are appropriate accountabilities. To this end, the Department of Transport and FreightCorp are developing new contracts.

2.5.21 The Government is currently considering whether there are any residual issues that may warrant a subsequent referral to IPART. The Government will ensure that the NCC is kept informed of future developments in this area.

National Rail Corporation Ltd

- 2.5.22 In October 1999 the Commonwealth Competitive Neutrality Complaints Office (CCNCO) received and investigated a complaint against the National Rail Corporation Ltd (NRC). NRC is owned by the Commonwealth (73 per cent), NSW (19 per cent) and Victorian (8 per cent) Governments.
- 2.5.23 The complainant alleged that NRC was in breach of the competitive neutrality policies of its owner governments because it had not earned a commercial rate of return on its assets for the financial years 1995-96, 1996-97 and 1997-98.
- 2.5.24 The CCNCO's findings noted that:
- the NRC has not earned a commercial return on its assets over the last three years;
 - given the circumstances facing the NRC's formation and recent operation, the failure to return a commercial rate is not sufficient to find that the NRC's performance has been in breach of CN requirements;
 - the NRC's corporate plan projections to 2002 are not sufficient to meet CN requirements in the longer term, even though they provide for a commercial rate of return; and
 - if a government business is unable to operate commercially in the longer term, one option is for the owner government to sell the business (the CCNCO noted that this is the announced intention of the owner jurisdictions).

Application to local government

- 2.5.25 As indicated in the Policy Statement, local councils are responsible in the first instance for dealing with complaints regarding the application of competitive neutrality principles. The Department of Local Government reviews those complaints which councils are unable or have failed to resolve or where, after consideration by the council, the complainant requests a review by the Department, and in the circumstances, the request is reasonable. Complainants are also able to approach the Department of Local Government in order to obtain additional information concerning the application of competitive neutrality principles.
- 2.5.26 As indicated in the Policy Statement, a decision by a council not to apply competitive neutrality principles to a particular business activity requires an independent cost benefit analysis to substantiate the decision. To date, no such exemptions have been sought. Accordingly, all competitive neutrality complaints are investigated as per the above arrangements.
- 2.5.27 Complaints dealt with by councils are reported in their annual reports. The NCC has previously advised that only those complaints that progress to the second stage (those formally investigated by the Department of Local Government) are required to be included in annual reports to the NCC.

Complaints about Local Government

- 2.5.28 There were no complaints that qualified for a second-stage investigation by the Department of Local Government in 1999. However, the complaint summary form at annexure 4 does list one such complaint against Albury City Council received and investigated in the second half of 1998.
- 2.5.29 Although the Department did not investigate any complaints during 1999, it did receive several complaints about councils that purported to involve competitive neutrality issues. However, upon closer examination none actually qualified as competitive neutrality complaints. This demonstrates that competitive neutrality obligations continue to be misunderstood in some quarters. In several instances the complainants were concerned that councils may have a competitive advantage if entering a business or may be discriminatory in charging fees to competitors where they used council facilities.
- 2.5.30 The matters raised are briefly outlined below.
- 2.5.31 In mid 1999 the Department and the Minister for Local Government received six submissions from various fitness/leisure centres. The Premier/The Cabinet Office received similar submissions. Submissions were in all cases supplied by the various complainants to each of the councils concerned and to State and Federal government agencies.
- 2.5.32 The submissions were of a proforma nature and apparently initiated by a consultant to the fitness industry. Five concerned councils that were proposing to establish fitness/leisure centres. The complainants were concerned that they would be disadvantaged by the councils commencing competitive business operations. The remaining complaint related to an existing operation and involved similar issues.
- 2.5.33 The Department provided guidance to the complainants to assist their understanding of Councils' competitive neutrality obligations, and suggested that they needed in the first instance to pursue the matter with the relevant council. In July 1999, the Department also met with the fitness industry consultants involved and explained the operation of competitive neutrality requirements upon councils.
- 2.5.34 An unrelated complaint concerned an allegation that a council was denying a car rental operator access to its airport. While this was not strictly a competitive neutrality complaint, the Department discussed the matter with the council and the access issue was to be negotiated between the council and the operator.
- 2.5.35 The Department also received two allegations concerning two North Coast councils involving fees for development control services. The allegations related to services that were contestable and were among the issues dealt with by IPART in its 1998 and 1999 reports (refer previous NSW Government

annual report to the NCC for detail). The Department provided interim and final advice to the complainants on the basis of the IPART reports.

- 2.5.36 Another person made two complaints regarding two councils, alleging that the councils were denying the complainant access to the councils' effluent discharge points. These matters were also not competitive neutrality issues but rather access issues concerning Sydney Water. The Department provided relevant advice to the complainant and arranged for him to contact the appropriate officer at Sydney Water to enable him to pursue the matter with that organisation.
- 2.5.37 Another complaint received in September 1998 and finally settled in February 1999, involved allegations by the NSW Road Transport Association that a number of councils were making use of various cost advantages to obtain commercial waste management work. The allegations were essentially a misunderstanding of competitive neutrality principles. For example, the complainant was not aware that council businesses were required to comply with competitive neutrality obligations such as requirements for tax equivalent payments and the achievement of a commercial rate of return. The Minister met with the Association, and subsequently a meeting occurred between one of the councils and the Association to discuss the issues. The Department also made inquiries with this Council and responded to the complainant's concerns.
- 2.5.38 In November 1998 a complaint was received which was finalised in December 1998. It involved allegations that a rural council had acted in a manner that was discriminatory to other airlines operating at its airport. The matters raised were not competitive neutrality issues, but rather concerned discriminatory pricing and financial assistance by the council. The Department responded to both the complainant and the council, offering advice to the council regarding pricing and the financial assistance aspects of the allegation.

3. Review of Legislation

Requirements of the Agreement

- 3.1 Clause 5 of the Agreement requires jurisdictions to review legislation "that restricts competition" between 1996 and 2000. The Agreement indicates that legislation should not restrict competition unless it can be demonstrated that the benefits to the community as a whole outweigh the costs and that the objectives of the legislation can only be achieved by restricting competition. The determination of whether particular legislation "restricts competition" and requires review is for each jurisdiction to determine. Each jurisdiction was required to have published a Legislation Review Timetable by June 1996.

Application in NSW

- 3.2 An outline of the NSW approach was provided in the March 1997 Report. Legislation scheduled for review is listed in the *NSW Government Policy Statement on Legislation Review*, published in June 1996.
- 3.3 Annexure 2 sets out the outcomes or status of all NSW legislation reviews.
- 3.4 In September 1997, the National Competition Council (NCC) wrote to all jurisdictions outlining the Council's views on appropriate review processes. NSW practice accords with its suggestions in most respects. Where it differs, there are good reasons based on review experience to date. Some basic elements of NSW practice are set out below

Composition of review panels

- 3.5 Ministers have primary responsibility for reviews within their portfolios, and review panels are generally chaired by a senior officer of the relevant department. NSW believes that Ministerial and Departmental "ownership" of reviews contributes to the effectiveness of the review process, including implementation of recommended reforms. Review panels for all major reviews include central agency representatives (The Cabinet Office and usually The Treasury), or consult closely with central agencies in the preparation of public issues papers and review reports.
- 3.6 Where a review relates to a statutory authority and its role (e.g. the reviews of the *Dairy Industry Act 1979* and the *Meat Industry Act 1978*), the authority generally participates in the panel. NSW believes that the benefits of inclusion (expertise, knowledge, cooperation by the authority in review and reform implementation) outweigh the disadvantages of actual or perceived lack of objectivity. Experience has shown that the integrity and independence of the review process can be satisfactorily safeguarded by the involvement of central agency representatives on the review panel.

- 3.7 Review panels may also include representatives of major stakeholder groups. The benefits which may flow from inclusion, and the safeguards of review integrity, are similar to those outlined in the previous paragraph. Where there are a large number of stakeholder groups and/or their interests diverge widely, alternative mechanisms, such as formal or informal stakeholder reference groups, may be used.

Terms of reference and explanatory material

- 3.8 Formal terms of reference are developed for each review using the template terms of reference at Annexure 1 as a guide. The template is based on CPA Clause 5(9). The terms of reference are publicly available. Reviews are usually advertised with an outline of the process to be followed. A public issues paper which explains the anti-competitive elements under review, and elicits comment on relevant competition and public interest issues, is prepared for most reviews expected to have a widespread and/or significant impact.

Consultative processes

- 3.9 In 1997, NSW published consultation guidelines entitled '*Consulting on Reform: A Consultation Framework for Review of Anti-Competitive Legislation*'. The publication sets out a number of aspects of review procedure, and comprehensively covers consultation arrangements. These guidelines ensure that reviews are conducted in an open and transparent manner, and that public participation is facilitated. Final reports are made publicly available following Cabinet consideration of the recommendations.

National reviews and national coordination

- 3.10 National reviews of similar legislation may be proposed by any jurisdiction and may proceed where some or all jurisdictions agree on terms of reference and a process for the review. The COAG Committee on Regulatory Reform (CRR) facilitates the identification of possible national reviews and agreement by jurisdictions on review arrangements.
- 3.11 Most reviews are State-based, without any formal mechanism for national coordination. However, NSW ensures that all reviews take account of relevant regulatory regimes in other jurisdictions, and recent reforms or reform proposals. In 1997, NSW modified its template terms of reference to formalise this requirement (see Annexure 1, para 5).

Trade Practices Act exceptions

- 3.12 The ACCC was notified that exceptions made under section 51 of the *Trade Practices Act* have been included in the following NSW legislation:
- *Competition Policy Reform (NSW) Amendment Regulation 2000* (made under the *Competition Policy Reform (NSW) Act 1995*);

- *Liquor and Registered Clubs Legislation Further Amendment Act 1999*; and
- *Olympic Roads and Transport Authority Act 1998*.

New Legislation

- 3.13 Since the Government's ratification of the *Competition Principles Agreement* in April 1995 and the passage of the *Competition Policy Reform (NSW) Act* through the NSW Parliament in June 1995, proposals for new legislation are required to take account of competition policy requirements. To ensure that this occurs all proposals for new legislation or amendments to existing statutes are reviewed by officials in The Cabinet Office.
- 3.14 Inconsistencies between new legislation and competition policy requirements are either referred back to the responsible Minister for further consideration or brought to the attention of Cabinet. Ministers are aware that, should they proceed with anti-competitive legislation, approval must be sought from the Premier for any statutory exemptions or authorisations in relation to the *Trade Practices Act*.

Review of Legislation Timetable

- 3.15 The Government's legislation timetable is reviewed by the Premier in consultation with other Ministers, in accordance with the Government's overall policy agenda. Any alterations to the timing of reviews are agreed between the Premier and responsible Minister.

Licence Reduction Program

- 3.16 The Government has conducted a review of all licences, permits and approvals. The *Regulatory Reduction Act 1996* dealt with 33 licences. Of these, repeal of a further 8 licences remains to be proclaimed. There are also some 44 licences which were administratively repealed or amalgamated into three general categories of work: fencing, general maintenance, and cleaning.
- 3.17 The Government also regularly conducts a program for the staged repeal of subordinate legislation and has recently introduced an additional review aimed at reducing the number of statutory bodies.

Reforming Planning, Land Use and Natural Resource Approvals Systems

- 3.18 The Government's Policy Statement on Legislation Review identified a number of inefficiencies in the State's planning and land use approvals systems. The Statement indicated that the Government would address these issues through the application of overarching reform principles within a NCP framework. The reform principles are described in paragraphs 3.5 - 3.15 of the Policy Statement.
- 3.19 Attachment 2 of the Policy Statement listed a program of 30 reform projects. The Government indicated that it would report the outcomes of these projects

to the NCC. Annexure 3 of this report provides information on the status of each of the 30 projects, including where applicable, the relevant outcomes. Several of the projects were addressed in the context of recent reforms to the State's development approval system. Information on these reforms is presented below.

Reforms to the State's Development Approval System

- 3.20 The reforms to the State's development assessment system first came into effect on 1 July 1998 and have been operating now for two years. Under the reforms 'red tape' has been reduced and decisions on development proposals are now more certain and consistent.
- 3.21 The reforms covered three principal areas:
1. integrating development consents;
 2. providing appropriate assessment; and
 3. increasing competition in the area of compliance functions.

Integrating development consents

- 3.22 A clearer, simpler and more certain process is established for obtaining approvals for a project such as construction of a building or a new business. Integration is achieved by:
- providing a single system for the development, building and subdivision aspects of a project under the *Environmental Planning and Assessment Act 1979* (EP&A Act);
 - removing the need for subsequent *Local Government Act* approvals, where relevant; and
 - linking associated licences, permits and approvals required under other environmental legislation with the development consent (i.e. a 'one stop shop' concept).

Providing appropriate assessment

- 3.23 A more streamlined decision-making system is established to ensure that the level of assessment reflects the complexity and likely environmental impact of a development. This is to be achieved by the establishment of separate categories of development:
- **State significant development** is development that is of State or regional significance, such as a new coal mine, or major industrial development. The Minister for Urban Affairs and Planning will be the consent authority for these developments. A more consistent and integrated decision-making process applies to these major developments.

- **local development** is development that requires consent, and is not 'State significant development'. In most cases, councils will be the consent authority. Examples include shopping centres and townhouse developments. The Act provides a simplified approach when applying to applications for building and development.
- **complying development** is routine development, which can be certified entirely as complying with predetermined standards. Separate complying development procedures provide a faster system for assessing development.
- **exempt development** removes the need for any approval for minor development, provided that certain standards are satisfied.

Increasing competition in the area of compliance functions

- 3.24 Introducing competition has been achieved by allowing accredited certifiers to compete with councils in the assessment of compliance functions and technical standards. Ensuring the public interest is protected has been achieved by making professional associations responsible for the accreditation of private professionals as certifiers.
- 3.25 To further enhance the competitive environment of certification, the Government has deregulated the fees for certification. At the same time that fees have been deregulated the Independent Pricing and Regulatory Tribunal has investigated development assessment fees generally. The Tribunal has prepared reports on:
- development assessment fees
 - miscellaneous fees for development control
 - principles to be used in setting fees to ensure competitive neutrality in pricing

Success in the implementation of the changes

- 3.26 To provide users of the planning system with advice on how the assessment process operates the Government has prepared and release Guiding Development: better outcomes. This publication is helping to get greater consistency in decision making and has been well received.
- 3.27 The Government has spent the last year focusing on improvements and fine tuning of the system. This has included:
- streamlining the process to amend consents
 - making compliance certificates more effective
 - streamlining the payment of levies
 - better defining competition between councils and accredited certifiers where the Minister is the consent authority

- allowing Strata subdivision certificates to be issued by private certifiers

- 3.28 A major review of the regulations underpinning the system has been commenced. The review is required under the *Subordinate Legislation Act 1989* and has allowed the Government to fine-tune the operation of the system. The review will be complete by 1 September 2000 and the new provisions will come into effect on 1 January 2001.
- 3.29 Competition in the certification of development is well advanced. There are over 230 accredited certifiers in NSW (as of 1 July 2000), with 4 authorised schemes (engineers, building surveyors, planners and land surveyors). The Government is working to ensure that certification works well with the full support of the community by developing auditing programs and regularly reviewing the conduct of certifiers.
- 3.30 Exempt and complying development, which provides as of right developments, is now in place in 85% of councils in NSW. The remaining councils all have almost finalised their lists of exempt and complying development. In the next year (2000/2001) a review of exempt and complying lists will commence to encourage greater numbers of proposals to use this fast type of approval.
- 3.31 The Government continues to improve the operation of the integrated development consent process. Most State Agencies have been meeting the timeframes required by the regulations when providing advice on development proposals. As a result of the agencies work, development proposals are getting more certain and consistent approvals without an excessive increase in information requirements or approval times.
- 3.32 An ongoing qualitative research program has been developed by the Government to monitor the implementation of the reforms. Results to date indicate that the reforms have created massive cultural change in development assessment and have substantially reduced timeframes for building approvals.

Review of Plan Making in NSW

- 3.33 The Government is continuing to advance the review of the plan making aspects of the EP&A Act with the aim of developing a more strategic approach to plan making at the state, local and regional levels.
- 3.34 There are a large and growing number of plans and strategies prepared outside the EP&A Act especially in the area of natural resource management but also in areas such as transport planning and social planning. Strengthening the links between these 'other' plans and plans and policies prepared under the Act is being explored.
- 3.35 A Green Paper was released in February 1999 which looked at these and many other issues associated with plan making. The 5 themes of the paper were:

- **improving coordination and integration** between different levels and agencies of government to achieve better integration of plans and policies;
- **reducing complexity** to create a system of better organised plans, where it is clear how various plans relate to one another as well as the more particular issue of what provisions apply to a parcel of land;
- **better communication and participation** through improving the opportunities for involving the wider community in the strategic planning process including the areas of monitoring and review;
- **more effective land use controls** examining the possibility of rationalised zones through to removing prohibitions in plans and continuing the move to a more performance based or outcome focussed consideration of all proposals; and
- **a more efficient process for plan making and review** to streamline these procedures while maintaining an appropriate level of checks and balances.

3.36 A Feedback Report was released in November 1999 and provided a comprehensive analysis of the response to the Green Paper. As a result, some draft key directions have emerged which will be developed in a White Paper currently under preparation for release later this year.

3.37 These draft directions are:

- a planning framework with a clear 3-tier hierarchy containing a 'State Planning Policy Directory', 'Integrated Regional Plans' and 'Local Plans';
- a strong focus in these plans on community participation and sustainable outcomes;
- Local Plans that identify all the planning provisions applying to land;
- a coordinated approach to regional planning that provides regional strategic direction and is prepared by a regional body in partnership with key business, industry, government and community stakeholders;
- a strategic approach at the State level (through the State Planning Policy Directory) providing a vehicle to bring together Statewide planning policies of all agencies. This will in turn provide strategic planning guidance and mandatory regulatory direction for regional and local level planning. SEPPs, 117 Directions and model provisions can then be replaced with comprehensive policy statements to be read together with the policies of other agencies.

Review of the *Local Government Act 1993*

3.38 Clause 7 of the Competition Principles Agreement requires that all the principles in the Agreement should be applied to local government. As required by the Agreement, the NSW Government published its Policy Statement on the Application of National Competition Policy to Local Government in June 1996. The Policy Statement, prepared in consultation

with local government, details the Government's approach to the application of the Agreement to Local Government and makes a series of commitments with respect to the ongoing implementation of competition reforms.

- 3.39 A statutory review of the *Local Government Act 1993* (the Act) has been carried out in accordance with section 747 of the Act. A report of that review was tabled in Parliament in 1999. Although it was not a NCP review, it did address a number of competitive neutrality issues arising from the Act.
- 3.40 The NCP review required under the Government's Policy Statement has commenced. An issues paper is currently being prepared for publication. The Issues Paper outlines areas where the Act may have competitive impacts on council and/or non-council businesses. After reviewing submissions arising from the issues paper, the review will examine possible restrictions on competition imposed by the Act, including approvals to operate businesses, such as a mortuary or an undertaker's business, and the ability of councils to provide goods, services and other facilities.
- 3.41 Eight regulations made under the Act were reviewed and remade with amendments in 1999. Substantial amendments were made in the areas of water supply and sewerage activities, to better clarify the different roles for councils as suppliers as opposed to regulations. The resulting *Local Government (Water Services) Regulation 1999* clearly sets out the roles and responsibilities of councils' business activities in this regard. This assists councils to more easily adopt and maintain the corporatisation model appropriate under NCP.

Second tranche issues for supplementary assessment

- 3.42 In its second tranche assessment of governments' progress, the NCC identified a number of matters in relation to NSW for which it would undertake a supplementary assessment or was considering undertaking a supplementary assessment by July 2000. Information on each of these matters follows.

Water Reforms

- 3.43 In its second tranche assessment in June 1999, the NCC expressed concern that legislative reform had not kept pace with policy work in NSW, and advised that a further assessment would be undertaken in June 2000. NSW made a commitment to have relevant legislation in place by June 2000.
- 3.44 In April 2000, NSW advised the NCC that, while a Bill would be introduced by the end of the Budget Parliamentary Session, the Minister for Land and Water Conservation had made a commitment to defer debate on the Bill until October or November to allow further consultation.
- 3.45 The legislative amendments are comprehensive and extremely complex, and have involved negotiations with sophisticated and well-informed stakeholders who have an important contribution to make. Without a further

period of consultation, the legislation will not have the support of key stakeholders.

- 3.46 The deferral of debate until later this year does not represent any lessening of NSW's commitment to water reforms. Rather it indicates the Government's determination to get the legislation that underpins those reforms right, and reiterates the Government's commitment to the outcomes of those reforms.

Rice Marketing

- 3.47 In its June 1997 assessment of NSW's performance, the Council referred to the explanation given in the 1997 NSW Annual NCP Report for the Government's 1996 decision to retain the current rice vesting arrangements for five years beyond their expiry in 1999.
- 3.48 In its 1997 report NSW had indicated that:
- the benefits from the current regulatory arrangements, when taken as a whole, were estimated to be in the range of \$26 - 35 million in 1996 - 97, rising to \$36 - 45 million in 2000 - 2001. These benefits significantly exceed the domestic costs of the regulation, which were estimated to be between \$2 - 12 million annually;
 - Commonwealth export licensing arrangements were unnecessary given that the great majority of Australian rice is produced in NSW. State-based arrangements other than vesting which might retain benefits of single desk export selling, yet achieve deregulation of the domestic market, are unlikely to be feasible.
- 3.49 The Council responded in its Assessment Report that it was not convinced that the NSW approach was consistent with the Competition Principles Agreement that restrictive arrangements be retained only where a net benefit to the community is demonstrated. The Council noted that "meaningful discussions" had to take place between it and the NSW Government, and that these would be taken into account for the purposes of the second part of the first tranche assessment.
- 3.50 In June 1998 the NCC recommended to the Commonwealth Treasurer that the Commonwealth deduct \$10 million from NSW's remaining 1998-99 NCP payments as NSW had not demonstrated why the domestic rice market cannot be deregulated.
- 3.51 In February 1999 the Commonwealth Treasurer presented a proposal for a Commonwealth single export desk arrangement. He asked NSW for an in-principle agreement to remove NSW rice marketing arrangements if it could be shown that the Commonwealth proposal is effective in maintaining export premiums.

3.52 NSW gave in-principle agreement and further detailed development of the Commonwealth proposal has taken place. At the time of writing these negotiations were close to completion.

Dairy Industry Act 1979

- 3.53 Following a National Competition Policy review, in May 1998 NSW announced an extension of regulated milk supply management and farm gate pricing arrangements for a further five years until 2003. It was noted, however, that this position may have to be revisited if market factors had an adverse impact on the industry's stability prior to the year 2003, or if the Federal Government imposed National Competition Policy penalties.
- 3.54 In its second tranche assessment, the NCC noted that it did not consider that a net public benefit had been demonstrated from the current arrangements, and that a supplementary assessment would be undertaken before July 2000.
- 3.55 In July 1999 the Victorian Government announced that it would deregulate its dairy industry in July 2000.
- 3.56 Faced with the almost certain deregulation of the Victorian dairy industry, and its flow-on effects to other States, the Australian Dairy Industry Council commenced discussions with the Federal Government during mid 1999 with the aim of obtaining some form of support to enable the Australian dairy industry to adjust nationally to the effects of deregulation.
- 3.57 In September 1999 the Commonwealth announced that it would implement a \$1.8 billion structural adjustment package for the national dairy industry from 1 July 2000, if all State governments agreed to deregulate.
- 3.58 In December 1999, 89% of the Victorian dairy industry voted to deregulate their industry and accept the Commonwealth Government's offer.
- 3.59 Following a 65% vote by NSW dairy farmers in support of deregulation, in February 2000 the NSW Dairy Industry Conference unanimously supported the proposal.
- 3.60 The NSW Government therefore agreed to deregulate the NSW dairy industry in order to obtain access to the national adjustment package. The Dairy Industry Bill 2000 was introduced to Parliament on 1 June, and passed on 29 June. The Act commenced on 1 July 2000.

Annexure 1:

NSW Template Terms of Reference for NCP Reviews.

- 1 The review of the (*insert name of Act*) shall be conducted in accordance with the principles for legislation reviews set out in the Competition Principles Agreement. The guiding principle of the review is that legislation should not restrict competition unless it can be demonstrated that:
 - (a) the benefits of the restriction to the community as a whole outweigh the costs, and
 - (b) the objectives of the legislation can only be achieved by restricting competition.

- 2 Without limiting the scope of the review, the review is to:
 - (a) clarify the objectives of the legislation, and their continuing appropriateness
 - (b) identify the nature of the restrictive effects on competition
 - (c) analyse the likely effect of any identified restriction on competition on the economy generally
 - (d) assess and balance the costs and benefits of the restrictions identified, and
 - (e) consider alternative means for achieving the same result, including non-legislative approaches.

- 3 When considering the matters in (2), the review should also:
 - (a) identify any issues of market failure which need to be, or are being addressed by the legislation, and
 - (b) consider whether the effects of the legislation contravene the competitive conduct rules in Part IV of the *Trade Practices Act 1974* (Cth) and the NSW Competition Code.

- 4 The review shall consider and take account of relevant regulatory schemes in other Australian jurisdictions, and any recent reforms or reform proposals, including those relating to competition policy in those jurisdictions.

- 5 The review shall consult with and take submissions from (*describe stakeholders*) and other interested parties.

Annexure 2:

Status of NSW Legislation Reviews at 31 December, 1999

Agriculture

Act	Review Year	Objective	Status
MIA Wine Grapes Marketing Board	1995/96	Constitutes the MIA Wine Grapes Marketing Board - a statutory marketing authority responsible for the marketing of MIA wine grapes and to represent the interests of growers.	Complete. The Wine Grapes Marketing Board vesting power was extended until 31 July 2000, with extension subject to constrained conditions. A follow-up NCP review of the Board's proposed powers and functions post 31 July 2000 is about to commence.
Meat Industry Act 1987	1995/96	Constitutes the NSW Meat Industry Authority and provides for the regulation and control of the NSW meat industry.	Complete. Act will be amended and regulatory powers transferred to Safe Food Production (a new statutory body) upon commencement of the part of the <i>Food Production (Safety) Act 1998</i> that deals with red and white meat.
Rice Marketing Board	1995/96	The NSW Rice Marketing Board markets, or arranges to market, the annual rice crop in its role as the sole statutory marketing body for rice.	Complete. Legislative arrangements maintained to 2004, with review in 2000. Negotiations with the NCC and the Commonwealth are continuing to establish Commonwealth export licensing arrangements.

Act	Review Year	Objective	Status
Murray Valley Citrus Marketing Act 1989 (complementary to <i>Murray Valley Citrus Marketing Act (Vic)</i>)	1996/97	Makes provision for a joint NSW-Victorian scheme for marketing citrus fruit.	<p>Underway. The joint NSW-VIC review was conducted under the Victorian guidelines for NCP reviews and the independent consultants, Centre for International Economics undertook the review. The review report was submitted to both governments in August 1999 and was also publicly released in August on the basis that it was not an endorsed government position. Extensive public consultation is being undertaken in an attempt to develop a joint government response.</p> <p>An industry-supported proposal is expected to be finalised by July 2000 and submitted to both Governments for decision shortly thereafter.</p>
Dairy Industry Act 1979	1996/97	Constitutes the NSW Dairy Corporation which is responsible for the regulation of production, quality, supply and distribution of milk and the production, quality and storage of dairy products.	<p>Complete. In May 1998, the Government announced that legislative arrangements would continue until July 2003 when another review would be undertaken, unless market conditions dictated an earlier review of, or an amendment to the legislation.</p> <p>As a result of Victorian deregulation and the national structural adjustment package, regulated milk supply management and farm-gate pricing arrangements were removed through the <i>Dairy Industry Bill 2000</i>, which commenced on 1 July 2000. Food safety functions have been transferred to Safe Food.</p>
MIA Citrus Fruit Promotion Marketing Committee	1996/97	Part of <i>Marketing of Primary Products Act 1983</i> (see below) which relates to the marketing of certain primary products and provides for the establishment of marketing boards and enables the making of marketing orders.	<p>Complete. Committee retained for a further 4-year term. However, some of its industry functions were removed while others were limited to ensure greater accountability to constituent growers.</p>

Act	Review Year	Objective	Status
Horticultural Stock and Nurseries Act 1969	1996/97	Provides for the registration of nurseryfolk and resellers of horticultural stock and regulates the sale or propagation of certain horticultural stock.	<p>Complete. The Government agreed to implement all the Review recommendations, including the staged repeal of the Act (to be completed by December 2000).</p> <p>Amendments will be made to the <i>Plant Diseases Act 1924</i> so that it can serve as the principal means for managing the risk of disease in the horticultural industry. It is expected that the industry will seek to establish a committee under the <i>Agricultural Industry Services Act 1998</i> to provide industry services. Subject to a poll, the services would be funded by a compulsory industry levy.</p>
Poultry Meat Industry Act 1986	1996/97	Constitutes the Poultry Meat Industry Committee and defines its functions and regulates and controls the poultry growing industry.	<p>Underway. The review report is complete and awaits Government consideration.</p>
Rural Lands Protection Act 1989	1996/97	Establishes Rural Lands Protection Districts and associated boards that levy and collect rates, provide animal health services and control of noxious weeds and animals.	<p>Underway. The NCP review commenced in March 2000. An issues paper is currently being prepared and an extensive public consultation and submission process will be undertaken. Final report expected to be submitted by the end of 2000.</p>
Apiaries Act 1985	1996/97	Regulates the keeping of bees; requires and provides for the registration of beekeepers; prevents the introduction of, and to control and eradicate, certain diseases and pests which afflict bees and apiaries and provides for the payment of compensation to registered beekeepers in certain cases.	<p>Underway. Part of a generic review of disease legislation and is linked to the development of an Animal and Plant Health Bill. An issues paper was released in January 2000. The review group has started to formulate its recommendations.</p>

Act	Review Year	Objective	Status
Cattle Compensation Act 1951	1996/97	Provides for the establishment of a Cattle Compensation Fund and for payment of compensation to owners of cattle and carcasses of cattle destroyed as suffering from disease.	<p>Underway. Part of a generic review of all disease legislation and is linked to the development of an Animal and Plant Health Bill. An issues paper was released in January 2000. The review group has started to formulate its recommendations.</p>
Exotic Diseases of Animals Act 1991	1996/97	Provides for the detection, containment and eradication of certain diseases affecting livestock and other animals.	<p>Underway. Part of a generic review of all disease legislation and is linked to the development of an Animal and Plant Health Bill. An issues paper was released in January 2000. The review group has started to formulate its recommendations.</p>
Banana Industry Act 1987	1995/96	Constitutes the Banana Industry Committee (a statutory marketing authority) and links the compulsory grower charges to services provided by the committee.	<p>Complete. The Government agreed to:</p> <ul style="list-style-type: none"> • the retention of the Banana Industry Committee and its powers to provide industry service functions; • the removal of some obsolete and unexercised powers of the Committee; and • remove the Committee's Transport Direction power. <p>Legislative amendments were considered by Parliament during the Spring 1998 Session, however, the Bill lapsed due to the prorogation of Parliament.</p> <p>It is expected that a Bill to implement the NCP review recommendations will be introduced during the Spring 2000 session of Parliament.</p>

Act	Review Year	Objective	Status
Plant Diseases Act 1924	1996/97	Makes further provisions to prevent the introduction into NSW of diseases and pests affecting plants and fruit, to provide for the eradication of such diseases and pests, and to prevent their spread. Also makes certain provisions regarding the sale and grading of fruit and cotton plants.	Underway. Part of a generic review of all disease legislation and is linked to the development of an Animal and Plant Health Bill. An issues paper was released in January 2000. The review group has started to formulate its recommendations.
Stock Diseases Act 1982	1996/97	Relates to diseases in stock and repeals the <i>Stock Diseases (Tick) Act 1901</i> and the <i>Stock Diseases (Tick) Amendment Act 1915</i> .	Underway. Part of a generic review of all disease legislation and is linked to the development of an Animal and Plant Health Bill. An issues paper was released in January 2000. The review group has started to formulate its recommendations.
Swine Compensation Act 1928	1996/97	Provides for the establishment of a Swine Compensation Fund and for payment of compensation to owners of pigs and carcasses of pigs destroyed as suffering from disease.	Underway. Part of a generic review of all disease legislation and is linked to the development of an Animal and Plant Health Bill. An issues paper was released in January 2000. The review group has started to formulate its recommendations.
Stock Foods Act 1940	1996/97	Regulates the sale of food for stock.	Underway. Part of a generic review of all chemical residue legislation. The Review Report is complete and awaits Government consideration.

Act	Review Year	Objective	Status
Fertilisers Act 1985	1996/97	Provides for the registration of brand names for fertilisers and liming materials and regulates the sale of fertilisers, liming materials and trace element products.	<p>Complete. Part of a generic review of all chemical residue legislation. Review Report recommendations were implemented via the <i>Fertilisers Amendment Act 1999</i>.</p> <p>The Review outcomes were:</p> <ul style="list-style-type: none"> • removal of requirements for the brand names to be registered; • removal of minimum content requirements; and • retention and strengthening of provisions relating to food safety, overseas market access requirements and environment protection. Examples include maximum composition standards for heavy metals and labelling requirements.
Stock (Chemical Residues) Act 1975	1996/97	To prevent the slaughter for human consumption of stock which contain certain concentrations of residues of chemicals or which are otherwise chemically affected and to prevent stock from becoming chemically affected.	<p>Underway. Part of a generic review of all chemical residue legislation. The Review Report is complete and awaits Government consideration.</p>
Stock Medicines Act 1989	1996/97	Relates to medicines for stock and other animals for the purposes of enhancing the quality of agricultural production, protecting the environment and safeguarding the health of stock and other animals.	<p>Underway. Part of a generic review of all chemical residue legislation. The Review Report is complete and awaits Government consideration.</p>
Noxious Weeds Act 1993	1996/97	Provides for the identification, classification and control of noxious weeds.	<p>Underway. The Review Report has been completed and awaits Government consideration.</p>

Act	Review Year	Objective	Status
Seeds Act 1982	1996/97	Regulates the sale of seeds and prohibits the sale of certain seeds and plants.	Underway. The Review Report has been completed and awaits Government consideration.
Prickly Pear Act 1987	1996/97	Provides for the control and destruction of Prickly Pear.	Complete. Act repealed. Provisions now listed under the <i>Noxious Weeds Act 1993</i> .
Poultry Processing Act 1969	1996/97	Provides for the registration of plants in which poultry is processed for sale and to make provisions for the regulation and control of these plants.	Complete. Considered with the <i>Meat Industry Act 1987</i> . To be repealed upon the commencement of the <i>Meat Industry Amendment Act 1998</i> .
Prevention of Cruelty to Animals Act 1979	1996/97	Provides for the prevention of cruelty to animals.	Underway. The review commenced in August 1999 and an issues paper is currently being prepared.
Homing Pigeons Protection Act 1909	1996/97	Provides for the protection of homing pigeons during their flights.	Complete. Act repealed.
Agricultural Tenancies Act 1990	1996/97	Regulates the rights of agricultural landowners, tenants and sharefarmers and provides for the determination of disputes by arbitration.	Underway. The review report has been completed and awaits Government consideration.
Farm Debt Mediation Act 1994	1996/97	Makes provision for mediation concerning farm debts.	Underway. Final report under preparation.
Sydney Market Authority Act 1968	1996/97	Constitutes the Sydney Market Authority and to define its powers, authorities, duties and functions and to vest certain property in the Authority.	Review unnecessary. Act repealed.
Farm Produce Act 1983	1995/96	Makes provisions for the registration and regulation of farm produce merchants and farm produce agents.	Complete. Act repealed.

Act	Review Year	Objective	Status
Tobacco Leaf Stabilisation Act 1976	1995/96	Makes provisions with respect to the stabilisation of the tobacco leaf industry.	Complete. Act repealed.
Agriculture and Veterinary Chemicals Act 1994	1996/97	Applies certain laws of the Commonwealth relating to agricultural and veterinary chemical products as laws of NSW. Complementary to Commonwealth legislation.	Underway. National review. Final report has been submitted to COAG and a coordinated response is being developed.
Wheat Marketing Act 1989	1996/97	Relates to the marketing of wheat and other grains. Complementary to Commonwealth legislation.	Review unnecessary. Legislation to be repealed under the Statute Law Revision Program.
Dried Fruits Act 1939	1997/98	Make provision for the regulation of the dried fruits industry and reconstitutes the NSW Dried Fruits Board.	Review unnecessary. Legislation was repealed on 15/12/97. Consistent with prior resolutions of the Board, the Government decided on 20/10/98 to dissolve the Board; repeal the Act; immediately deregulate the dried vine fruit industry; & provide for transitional arrangements for the prune industry. The transitional arrangements involved the making of a Prune Industry Marketing Order under the Marketing of Primary Products Act. The marketing order expired on 31 Dec 1999. Its main purpose was to constitute the Prune Industry Marketing Committee which is to promote the smooth transition of the dried prune industry from a regulated to a deregulated industry. The Prune Industry Marketing Committee ceased activity on 31 Dec 1999 and is in the process of winding up its affairs.
Grain Marketing Act 1991	1997/98	Relates to the marketing of coarse grains and oilseeds and to constitute the NSW Grains Board.	Underway. The Review report has been completed and awaits Government consideration.

Act	Review Year	Objective	Status
Marketing of Primary Products Act 1983	1997/98	Relates to the marketing of certain primary products and to provide for the establishment of marketing boards in relation to certain of those products, and to enable the making of marketing orders.	Review unnecessary. Act to be repealed with savings provisions for remaining three authorities.
Murray Valley Wines Grapes Industry Development Committee	1997/98	Constituted under the <i>Marketing of Primary Products Act 1983</i> .	Complete. Joint review with Victoria. The review report was submitted to both governments in early 1999. As a consequence of the review report (which received the support of the NSW industry) the Murray Valley Wine Grapes Industry Negotiation Committee, whose term of office expired in November 1998, was not renewed. The Murray Valley Wine Grapes Industry Development Committee was re-constituted as an Industry Service Committee under the <i>Agricultural Industry Services Act 1998</i> .
Murray Valley Wines Grapes Industry Negotiating Committee	1997/98	Constituted under the <i>Marketing of Primary Products Act 1983</i> .	Complete. Joint review with Victoria. The review report was submitted to both governments in early 1999. As a consequence of the review report (which received the support of the NSW industry) the Murray Valley Wine Grapes Industry Negotiation Committee, whose term of office expired in November 1998, was not renewed. The Murray Valley Wine Grapes Industry Development Committee was re-constituted as an Industry Service Committee under the <i>Agricultural Industry Services Act 1998</i> .
Exhibited Animals Protection Act 1986	1997/98	An Act with respect to the exhibition of animals at marine or zoological parks, circuses and other places.	Underway. Being reviewed in conjunction with the review of the <i>Non-Indigenous Animals Act</i> . Review report is in preparation.

Act	Review Year	Objective	Status
Non Indigenous Animals Act 1987	1997/98	Controls and regulates the introduction into the State of certain species of animals and the movement and keeping of those animals within the State.	Underway. Being reviewed in conjunction with the review of the <i>Non-Indigenous Animals Act</i> . Review report in preparation.
Animal Research Act 1985	1997/98	An Act to protect the welfare of animals used in connection with animal research.	Underway. The review commenced in March 1999 with an issues paper released in April 1999. Review report in preparation.
Rural Assistance Act 1989	1996/97	Constitutes the NSW Rural Assistance Authority.	Complete. Current arrangements to be retained, subject to minor amendment. An amendment Bill is currently in the Legislative Assembly.
Veterinary Surgeons Act 1986 (1) Stock (Artificial Breeding) Act 1985 (2)	1997/98	(1) Regulates veterinary surgeons and premises; defines acts to be performed by vets; establishes the Veterinary Surgeons Board and disciplinary procedures; controls delegation of duties; regulates advertising and use of the title 'Veterinary Surgeon'. (2) Repeals the <i>Stock (Artificial Insemination) Act 1948</i> and makes provisions with respect to the artificial breeding of stock.	Underway. The Review Report has been completed and awaits Government consideration.

Arts

Act	Review Year	Objective	Status
Library Act 1939 (Library Regulation 1995)	1995/96	Makes further provisions for the establishment, maintenance and management of libraries, library services and information services and creates certification scheme for librarians.	Complete. Certification scheme abolished.

Attorney-General

Act	Review Year	Objective	Status
Public Notaries Act 1985	1995/96	Provides for appointment, enrollment and disciplinary procedures for Public Notaries	Complete. New Act in place.
Public Trustee Act 1913	1995/96	Establishes the Public Trustee as a corporation empowered to conduct personal trust work.	Complete. Legislation was rejected by Parliament. Other measures to implement review recommendations are under consideration.
Monopolies Act 1923	1995/96	Amends the law in relation to monopolies and restraint of trade.	Complete. Repealed.
Restraints of Trade Act 1976	1995/96	Provides for Supreme Court action based on applications against activities which create restraints of trade.	Complete. Review complete. Act strengthens public interest test found in the common law. Act to be retained with amendment to indicate that it is subject to <i>Trade Practices Act</i> and <i>Competition Policy Reform (NSW) Act 1995</i> .
Trustee Companies Act 1964	1995/96	Consolidates and amends the law relating to the restrictions, liabilities, privileges and powers of trustee companies.	Underway. Draft Standing Council of Attorneys General (SCAG) Bill providing for uniform legislation is well advanced. There will be a NCP assessment of the impact of the Bill prior to implementation. Possible national review.
Legal Profession Act 1987	1996/97	Regulates the admission and practice of barristers and solicitors and repeals the <i>Legal Practitioners Act 1898</i> . Constitutes the Barristers Admission Board and Legal Practitioners Admission Board.	Underway. Report tabled in Parliament in November 1998. Implementation is underway. So far: <ul style="list-style-type: none"> • rule requiring solicitors to have majority control of multidisciplinary practices abolished. • Bill to allow solicitors to incorporate in Parliament (as at June 2000).

Act	Review Year	Objective	Status
Motor Accidents Act 1988 (1) Motor Vehicles (Third Party Insurance) Act 1942 (2)	1996/97	(1) Relates to the recovery of damages and compulsory insurance against liability for the death or injury of persons as a consequence of motor accidents. (2) Requires that owners & drivers of motor vehicles are insured against liability in respect of death or bodily injury, amends the <i>Transport Act 1930</i> & the <i>Compensation to Relatives Act 1987</i> .	Complete. NSW already has a competitive market for compulsory Third Party Insurance. Some amendments in <i>Motor Accidents Compensation Act 1999</i> .
Partnerships Act 1892	1998/99	To declare and amend the law of partnership.	Commenced.
Standard Time Act 1987	1998/99	Relates to standard time and daylight saving in NSW.	Review unnecessary. Withdrawn as no anti- competitive issues in Act.
Council of Law Reporting Act 1969	1998/99	Constitutes a Council of Law Reporting to New South Wales and defines its powers, authorities, duties and functions.	Complete. Act to be retained, but administrative changes to introduce competitive tendering for licence to publish reports. Publication of on-line reports now open to any one for a fee.
Professional Standards Act 1994	1998/99	Provide for the limitation of liability of members of occupational associations in certain circumstances and to facilitate the improvement of the standards of services provided by those members.	Commenced.
Classification (Publications Films and Computer Games) Enforcement Act 1995	1999/2000	Provides for a classification scheme for publications, films and computer games. Complementary to Commonwealth legislation.	Review unnecessary. This is a national scheme. A revised censorship regime with the support of all Australian jurisdictions came into operation on 1 January 1996.
Theatres and Public Halls Act 1908	1999/2000	Provides for the licensing and regulation of theatres and public halls and of places used for public entertainment or public meetings, and the licensing and regulation of the holding of public entertainment and public meetings in temporary structures.	Not commenced. Possible repeal in 2000.

Energy

Act	Review Year	Objective	Status
Energy Administration Act 1987	1995/96	Constitutes the Energy Corporation of NSW and defines its functions.	Complete. Licence and approval requirements repealed with proclamation of <i>Electricity Supply Act 1995</i> . Other provisions dealt with as part of structural reform of gas industry.
Pipelines Act 1967	1996/97	Relates to the construction, operation and maintenance of pipelines.	Underway. Review has been undertaken in conjunction with a wider statutory review. The Government will consider the report as a whole once legislative proposals resulting from the statutory review have been finalised.
Liquefied Petroleum Gas Act 1961 Liquefied Petroleum Gas (Grants) Act 1980	1997/98	Regulates the supply of gas.	Complete. Repealed by the <i>Gas Supply Act 1996</i> .
Electricity (Pacific Power) Act 1950	1999/2000	Provides for the constitution of Pacific Power and to define its principal objectives, powers, authorities, duties and functions. Amends and repeals certain other Acts.	Review unnecessary. In May 2000, the Government announced the establishment of a new state-owned corporation from Pacific Power's generation business. No legislative change was required. It is envisaged that after a transitional phase the Act will become redundant and will eventually be repealed.
Electricity Transmission Authority Act 1994	1999/2000	Establishes the NSW Electricity Transmission Authority and defines its functions.	Review unnecessary Act repealed by s.5 of the <i>Energy Services Corporations Amendment (TransGrid Corporatisation) Act 1998</i> on 14 December 1998.

Act	Review Year	Objective	Status
Electricity Safety Act 1945	1999/2000	Provides for the development of electricity supply; confers certain powers, authorities, duties and functions on the Energy Corporation of NSW; provides for the regulation of the sale and hiring of electrical apparatus and amends certain Acts.	Not commenced.
Electricity Supply Act 1995	1999/2000	Regulates the supply of electricity in the wholesale and retail markets; sets out the functions of persons engaged in the conveyance and supply of electricity.	Not commenced.
Gas Industry Restructuring Act 1986	1999/2000	Makes provision with respect to the structure of AGL.	Review unnecessary Act replaced with <i>Gas Supply Act 1996</i> which corporatised AGL.

Environment

Act	Review Year	Objective	Status
Pesticides Act 1978	1995-96	Controls the sale, supply, use and possession of pesticides, the application of pesticides from aircraft and provides for the prevention of foodstuff contamination.	Complete. Dealt with under the Licence Reduction Program. However, Part 7 of the Act is currently subject to further review in the context of a generic review of several Acts dealing with chemical residues (see Agriculture section). The review report is complete and awaits Government consideration.
Radiation Control Act 1990	1995-96	Makes provision for the regulation and control of the sale, use, keeping and disposal of radioactive substances and radiation apparatus.	Complete. Dealt with under the Licence Reduction Program. A national review of radiation control legislation may have implications for this Act.

Act	Review Year	Objective	Status
Recreation Vehicles Act 1983	1995-96	Regulates the off-road use of motor vehicles.	Review unnecessary. Vehicle registrations can no longer be made under this Act, as the relevant regulation expired in 1999 and will not be re-made. Management of recreational vehicles will in future rely on existing NCP-compliant powers located within road transport legislation.
National Parks and Wildlife Act 1974	1995-96	Consolidates and amends the law relating to the establishment, preservation and management of national parks, historic sites and certain other areas and the protection of certain fauna, native plants and aboriginal relics.	Complete. Dealt with under the Licence Reduction Program.
Ozone Protection Act 1989	1995-96	Empowers the regulation and prohibition of the manufacture, sale, distribution, use, emission, recycle, storing and disposal of stratospheric ozone depleting substances and articles which contain those substances.	Complete. Dealt with under the Licence Reduction Program.
Environmentally Hazardous Chemicals Act 1985	1995-96	Provides for the control of the effect on the environment of chemicals and chemical waste. Constitutes the Hazardous Chemicals Advisory Committee.	Complete. Dealt with under the Licence Reduction Program. Partially replaced by the <i>Contaminated Land Management Act 1997</i> .
Waste Disposal Act 1970	1995-96	Provides for the constitution of a corporation to be called the 'Metropolitan Waste Disposal Authority'; confers and imposes on the corporation responsibilities, powers, authorities, duties and functions with respect to the transport, collection, reception, treatment, storage and disposal of waste within the Metropolitan Waste Disposal Region.	Review Unnecessary The Act was repealed and replaced by the <i>Waste Minimisation and Management Act 1995</i> .

Act	Review Year	Objective	Status
Unhealthy Building Act 1990	1996-97	Provides for the declaration of certain land as unhealthy building land and for the effect of such a declaration.	Complete. Dealt with under the Licence Reduction Program.
Waste Minimisation and Management Act 1995	1999-2000	Relates to the management, regulation and reduction of waste.	Underway. Review group formed and issues paper released.

Fair Trading

Act	Review Year	Objective	Status
Hawkers Act 1974	1995/96	Provides for the licensing and control of hawkers.	Complete. Act repealed.
Trade Measurement Act 1989	1995/96	Relates to trade measurement in NSW as part of the scheme for uniform trade measurement legislation throughout Australia.	Underway. National review being undertaken by Ministerial Council on Consumer Affairs.
Building Services Corporation Act 1989	1996/97	Makes provisions concerning the residential building industry and certain specialist work and to constitute the Building Services Corporation and define its functions.	Underway. Legislative changes arising from the review have abolished the BSC, privatised the compulsory insurance arrangements, and abolished business licensing. Additional reforms to occupational licensing are under consideration.
Door to Door Sales Act 1967	1996/97	Controls and regulates certain agreements relating to the sale or bailment of goods and the provision of services on credit.	Underway. Being reviewed in conjunction with the review of the <i>Fair Trading Act 1987</i> .
Prices Regulation Act 1948	1996/97	Makes provision for the regulation of prices and rates of certain goods and services.	Complete. Measures to implement review recommendations are under consideration.

Act	Review Year	Objective	Status
<p>Motor Dealers Act 1974 No 52 (1)</p> <p>Motor Vehicles Repair Act 1980 (2)</p>	1996/97	<p>(1) Provides for the granting of licences to people carrying on the business of a motor dealer, an auto-dismantler, a wholesaler, a motor vehicle parts reconstruction, a car market operator or a motor vehicle consultant, or a prescribed business; requires the keeping of certain records; imposes certain obligations on motor dealers; provides for the settlement of disputes and establishes a motor dealers compensation fund.</p> <p>(2) Constitutes the Motor Vehicle Repair Industry Council and confers on it licensing functions concerning repair businesses and tradesman and loss assessors.</p>	<p>Underway. Report completed, CM with Minister</p>
Business Names Act 1962	1996/97	Makes provision with respect to the registration and use of business names.	<p>Underway. Final report being prepared.</p>
<p>Residential Tenancies Act 1987 (1)</p> <p>Landlord and Tenant (Rental Bonds) Act 1977 (2)</p>	<p>1997/98</p> <p>1996/97</p>	<p>(1) Relates to the rights and obligations of landlords and tenants under residential tenancy agreements; makes provision with respect to excessive rent increases and rents; confers functions onto the Residential Tenancies Tribunal of NSW with respect to landlords and tenants. Repeals and amends certain Acts.</p> <p>(2) Constitutes a Rental Bond Board; confers and imposes certain powers, authorities, duties and functions on the Board; requires lessors of residential premises to deposit rental bonds with the Board; provides for the paying out of rental bonds and enabled the investment of rental bonds and the investment and expenditure of rental bonds.</p>	<p>Underway. Report completed, CM with Minister</p>

Act	Review Year	Objective	Status
Funeral Funds Act 1979	1996/97	Controls and regulates contributory and pre-arranged funeral funds.	Underway. Issues paper released.
Property, Stock and Business Agents Act 1941	1996/97	Regulates real estate, stock and station, business and managing agents.	Underway. Report completed, CM with Minister
Retirement Villages Act 1989	1996/97	Relates to the termination of occupation rights of residents in retirement villages and confers jurisdiction over certain matters relating to retirement villages, on the Residential Tenancies Tribunal.	Complete. Retirement Villages Act 1999 assented 3/12/99
Valuers Registration Act 1975	1996/97	Provides for the registration of real estate valuers; regulates the qualifications for and the effect of such registrations and confers and imposes functions on the Property Services Council.	Underway. Report completed and released CM being prepared.
Travel Agents Act 1986	1997/98	Provide for the licensing of travel agents and the regulation of their operations.	Underway. Report complete, CM in preparation National review, coordinated by WA.
Cooperatives Act 1992 (1) Cooperation Act 1923 (2)	1997/98	(1) Provides for the establishment of cooperatives and the regulation of their operations. (2) Amends the law relating to cooperation; provides for the formation, registration and management of co-operative societies.	Underway. Report completed, CM in preparation
Fair Trading Act 1987	1997/98	Regulates the supply, advertising and distribution of goods and services and, in certain respects, the disposal of interests in land.	Underway. Issues paper released.
Business Licences Act 1990	1997/98	Relates to business licences.	Underway. Report complete, CM approved 9/10/00, legislation in progress

Act	Review Year	Objective	Status
Consumer Credit (NSW) Act 1995	1999/2000	Regulates the provision of consumer credit.	Underway. National review. The Ministerial Council on Consumer Affairs (MCCA) is undertaking a post-implementation review of the Uniform Credit Code which includes NCP analysis.
Credit (Finance Brokers) Act 1984	1999/2000	Relates to the conduct of business of finance brokers.	Underway Issues paper released.
Pawnbrokers and Second Hand Dealers Act 1996	1999/2000	Provides for the licensing of pawnbrokers and dealers in certain classes of second hand goods. Repeals and amends certain Acts.	Underway Issues paper released.
Strata Titles Act 1973 Strata Titles (Leasehold Development) Act 1986	1999/2000	Acts replaced by <i>Strata Schemes Management Act 1996</i> which provides for the management of strata schemes and the resolution of disputes in connection with strata schemes.	Underway. Issues paper for review of <i>Strata Schemes Management Act 1996</i> approved for release.

Fisheries

Act	Review Year	Objective	Status
Fisheries Management Act 1994	1999/2000	Relates to the management of fishery resources.	Underway. Issues paper prepared.

Gaming and Racing

Act	Review Year	Objective	Status
Australian Jockey Club Act 1873 (1) Sydney Turf Club Act 1943 (2)	1995/96	(1) Extends the period for which the trustees of the Randwick Racecourse are enabled to grant leases and to enable members of the Australian Jockey Club to sue and be sued in the name of the Chairman. (2) Constitutes and incorporates the Sydney Turf Club and declares its objects, functions and powers and provides for associated matters.	Completed.
Registered Clubs Act 1976 (1) Liquor Act 1982 (2)	1996/97	(1) Makes provisions with respect to the registration of clubs and their rules and management. (2) Regulates the sale and supply of liquor and regulates the use of premises at which liquor is sold.	Underway. Joint review. Draft report in preparation.
Gaming and Betting Act 1912	1997/98	Consolidates Acts relating to games, wagers and betting houses, the restriction of race meetings and the licensing of race courses. Act was repealed and remade in three parts to be separately reviewed: <ul style="list-style-type: none"> • core gaming and betting provisions (Unlawful Gambling Act); • racecourse licensing (new Racing Administration Act); and • two-up (Gambling (Two Up) Act). 	Completed/Underway <ul style="list-style-type: none"> • Unlawful Gambling Act (Complete -exempt from review); • Racing Administration Act and associated Acts-review underway; and • Two Up Act (inter-department review complete).

Act	Review Year	Objective	Status
Racing Administration Act 1998 Greyhound Racing Control Board Act 1985 Harness Racing Act 1977 Bookmakers Taxation Act 1917 Thoroughbred Racing Board Act 1996	Various	These Acts establish controlling bodies for these race codes.	Underway. Reviews of these Acts merged with review of <i>Racing Administration Act</i> . Final report is in preparation.
Innkeepers Act 1968	1997/98	To make provision with respect to certain rights and liabilities of innkeepers and persons having dealings with innkeepers.	Underway. Final report is in preparation.
Lotteries and Art Unions Act 1901	1999/2000	An Act with respect to the conduct of lotteries, games of chance and art unions.	Underway. Issues paper is in preparation.
Lotto Act 1979 NSW Lotteries Act 1990 Soccer Football Pools Act 1975	1999/2000		Review unnecessary. The Acts were repealed and replaced by the <i>NSW Lotteries Corporatisation Act 1996</i> and the <i>Public Lotteries Act 1996</i> .
Casino Control Act 1992	additional item	Establishes the Casino Control Authority and issues exclusive license for Sydney casino.	Underway. Review report is in preparation.
Totalizator Act 1916	1999/2000	Amends and consolidates the law as it relates to the conduct of totalizators and the regulation of totalizator betting.	Complete. Act repealed by <i>Totalizator Act 1997</i> which privatised the TAB. Clause 5(5) CPA analysis submitted to NCC. NCC reported analysis adequate in "Framework for the NCP Second Tranche Assessment: June 1999" (p.16).

Act	Review Year	Objective	Status
Totalizator (Off-Course Betting) Act 1964	1999/2000	Makes provision with respect to off-course betting by means of the totalizator system; provides for the conduct of sweepstakes in respect of certain events; establishes a Totalizator Agency Board and defines its powers, authorities, duties and functions.	Complete. Act repealed by <i>Totalizator Act 1997</i> which privatised the TAB. Clause 5(5) CPA analysis submitted to NCC. NCC reported analysis adequate in "Framework for the NCP Second Tranche Assessment: June 1999" (p.16).

Health

Act	Review Year	Objective	Status
Therapeutic Goods and Cosmetics 1972	1995/96	Regulates the manufacture, distribution and advertising of certain therapeutic goods and imposes standards in relation to certain therapeutic goods and cosmetics.	Complete. Act repealed. Provisions relating to cosmetics not re-enacted. Licences for wholesalers of therapeutic goods eliminated. Remaining provisions incorporated into the <i>Poisons Act 1966</i> and the <i>Therapeutic Goods Act 1972</i> .
Poisons and Therapeutic Goods Act 1966	1995/96	Regulates, controls and prohibits the sale and use of poisons, restricted substances, drugs of addiction and certain dangerous drugs and establishes a Poisons Advisory Committee.	Underway. National review.
Dentists Act 1989	1995/96	Regulates the practice of dentistry.	Underway. Review report is in preparation.
Medical Practice Act 1992	1995/96	Provides for the registration of medical practitioners and medical students, the making of complaints and disciplinary action.	Complete. Legislation passed during the Budget Session 2000 to remove quasi practice restrictions and introduce a system of performance assessments for medical practitioners.

Act	Review Year	Objective	Status
Tobacco Advertising Prohibition Act 1991	1995/96	Prohibits the advertising of tobacco and tobacco products, trade marks, brand names and logos.	Complete. Act repealed. Advertising restrictions were rationalised and incorporated into the <i>Public Health Act 1991</i> .
Podiatrists Act 1989	1996/97	Regulates the practice of podiatry; makes provisions for the registration of podiatrists and regulates the qualifications for and the effect of such registration; constitutes the Podiatrists Registration Board and specifies its functions.	Underway. Issues paper released for public consultation.
Human Tissue Act 1983	1996/97	Relates to the donation of tissue by living persons, the removal of tissue from deceased persons and the conduct of post-mortem examinations of deceased persons.	Underway. Review report is in preparation. Review is examining the regulation of blood and blood products.
Optometrists Act 1930	1996/97	Provides for the registration of optometrists and regulates the practice of optometry.	Complete. Review report approved by Cabinet.
Psychologists Act 1989	1996/97	Makes provision for the registration of psychologists; regulates the qualifications for the effect of such registration and constitutes the Psychologists Registration Board and specifies its functions.	Complete. Review report approved by Cabinet.
Nurses Act 1991	1997/98	Regulates the practice of nursing.	Underway Review report being drafted.
Physiotherapists Registration Act 1945	1997/98	Makes provision for the registration of physiotherapists; regulates the qualifications and effect of such registration; provides for the constitution of a Physiotherapists Registration Board and defines the powers and functions of that Board.	Underway Review report being drafted.

Act	Review Year	Objective	Status
Public Health Act 1991	1997/98	Regulates the funeral industry, skin penetration, microbial control and other matters.	Underway Review report being drafted.
Nursing Homes Act 1988	1997/98	Provides for the licensing and control of nursing homes.	Underway Issues paper awaiting release.
Friendly Societies Dispensaries Enabling Act 1945	1997/98	Enables Friendly Societies to operate pharmacies.	Complete. Act repealed. Relevant provisions were incorporated into the <i>Pharmacy Act</i> , which is currently subject to a national review.
Chiropractors and Osteopaths Act 1991	1997/98	Regulates the practice of chiropractic and osteopathy and repeals the <i>Chiropractic Act 1987</i> .	Complete. Review report approved by Cabinet.
Pharmacy Act 1964	1997/98	Regulates the carrying on of the business of a pharmacist; authorises friendly societies and trading and rural societies established under the <i>Co-operation, Community Settlement and Credit Act 1923</i> to carry on the business of a pharmacist in certain circumstances. Amends relevant Acts.	Underway. National review.
Private Hospitals and Day Procedures Centres Act 1988	1997/98	Provides for the licensing and control of day procedure centres.	Underway. Issues Paper awaiting Minister's approval to release.
Optical Dispensers Act 1963	1999/2000	Makes provision for the licensing of optical dispensers; regulates the qualifications and the effect of such licensing; provides for the constitution of an Optical Dispensers Licensing Board and defines the powers and functions of that Board.	Review unnecessary. Considered undertaken by a Commonwealth-State review of partially regulated occupations.
Dental Technician Registration Act 1975	1999/2000	Constitutes the Dental Technicians Registration Board & defines its powers, authorities, duties and functions; makes provisions for the registration of dental technicians; regulates the qualifications for, and the effect of, registration.	Review unnecessary. Considered undertaken by a Commonwealth-State review of partially regulated occupations.

Act	Review Year	Objective	Status
Pathology Laboratories Accreditation Act 1981	1999/2000	Provides for the accreditation of Pathology Laboratories.	Complete. Act repealed in 1999.
Food Act 1989	1999/2000	Consolidates and amends the law relating to the preparation and sale of food.	Underway. National review.

Industrial Relations/WorkCover

Act	Review Year	Objective	Status
Bread Act 1969	1995/96	Makes provisions in respect of times for the baking and delivery of bread, licensing of bread manufacturers, certification of operative bakers, standard bread size; constitutes a Bread Industry Advisory Council and amends other Acts.	Complete. Repealed.
White Phosphorous Matches Prohibition Act 1915	1995/96	Prohibits the use of white phosphorus in the manufacture of matches and prohibits the sale of matches made with white phosphorous.	Complete. Repealed.
Occupational Health and Safety Act 1983	1999/00	To secure the health, safety and welfare of persons at work and to amend certain other Acts.	Underway. Draft new consolidated OH&S Regulation currently out for consultation. Implementation scheduled for early 2001. Competition issues to be addressed in RIS.
Industrial Relations Act 1991	1996/97	Restates and reforms the law concerning industrial relations.	<i>Industrial Relations (IR) Act 1991</i> repealed & replaced with <i>IR Act 1996</i> . Regulation of employment agents was separated from IR Act into <i>Employment Agents Act 1996</i> . The <i>Employment Agents Act</i> is under review (refer to Fair Trading).

Act	Review Year	Objective	Status
Rural Workers Accommodation Act 1969	1999/00	Provides for the accommodation of rural workers and constitutes the Rural Workers Accommodation Advisory Council. Creates certificate of compliance for accommodation.	Underway Some industrial issues involved. To be reviewed concurrently with new OH&S regulation.
Factories, Shops and Industries Act 1962	1999/00	Makes provisions with respect to the supervision and regulation of factories, shops and certain other industries and to the health, safety and welfare of employees; restricts trading hours; controls advertising and description of goods; regulates outdoor work in clothing trade; restricts hours of trade and labour; controls advertising; creates licensing regime for hairdressers and prescriptive requirements for hairdressing premises.	Part 3: Underway Linked to current reviews of the <i>Occupational Health and Safety Act</i> . Part 4: Complete. Trading hours in NSW largely deregulated. Comprehensive public benefit test in place for assessment of any remaining restrictions. Part 6: Underway. Relates to hairdressers. Issues paper released in June 2000.
Construction Safety Act 1912	1999/00	Provides for the regulation and inspection of construction work and consolidates the Acts controlling scaffolding and lifts.	Not commenced. Linked to <i>Occupational Health and Safety Act</i> review. Creates several certificates of competency. Some have already been reviewed and removed under the Licence Reduction Program.

Act	Review Year	Objective	Status
Dangerous Goods Act 1975	1999/00	Consolidates and amends the law relating to explosives and other dangerous substances.	<p>Underway Public comment has been received on the draft national standard on storage and handling and the national standard is expected to be finalised in November 2000.</p> <p>Legislative amendments involving the transport of dangerous goods commenced on 20 April 1998 to give effect to the first module of reforms to national road transport law developed through the National Road Transport Commission.</p> <p>The <i>Dangerous Goods (General) Regulation 1999</i> came into effect on 1 September 1999. NCP review to take place once the national standard has been finalised.</p>
Funeral Services Industry (Days of Operation) Act 1990	1998/98	Regulates the days of operation of businesses providing funeral, burial or cremation services.	Complete. Act repealed.
Entertainment Industry Act 1989	1999/2000	Relates to the regulation of the entertainment industry and amends and repeals certain legislation.	Underway. Issues paper being drafted.

Local Government

Act	Review Year	Objective	Status
Local Government (Theatre and Public Halls) Amendment Act 1989	1995/96	Amends the <i>Local Government Act</i> to make provision for approval and regulation of places of public entertainment and certain structures.	Complete. Dealt with under the Licence Reduction Program. Licence retained. Issues of public safety outweigh costs.

Act Local Government Act 1993	Review Year 1997/98	Objective To provide for Local Government in New South Wales.	Status Underway. Partly dealt with under the Licence Reduction Program and the recent reform of planning laws. The Act has recently been subject to a statutory review that was tabled in Parliament in 1999. An issues paper dealing with remaining NCP issues is currently being finalised.
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Mineral Resources

Act	Review Year	Objective	Status
Petroleum (Onshore) Act 1991	1995/96	Regulates the search for, and mining of, petroleum.	Complete. Dealt with under the Licence Reduction Program.
Petroleum (Submerged Lands) Act 1982	1995/96	Relates to the exploration for, and exploitation of, petroleum resources and certain other resources adjacent to the coast of NSW.	Underway. Some portions dealt with under the Licence Reduction Program. Remainder to be examined as part of a national review.
Mining Act 1992	1995/96	Makes provisions with respect to prospecting for and mining minerals.	Complete. Dealt with under the Licence Reduction Program.
Coal Ownership (Restitution) Act 1990 (1) Coal Acquisition Act 1981 (2)	1996/97	(1) Provides for the restitution of certain coal acquired by the crown as a result of the Coal Acquisition Act 1981. (2) Vests all coal in the Crown.	Complete. Acts will be superseded by new legislation – the <i>Coal Acquisition Amendment Act</i> . The Acts are likely to be repealed when the Coal Compensation Board is abolished.
Mines Inspection Act 1901	1996/97	Makes better provision for the regulation and inspection of mines, other than coal and shale mines, and regulates the treatment of the products of such mines	Underway. Issues paper being finalised.

Coal Mines Regulation Act 1982	1999/2000	Regulates coal mines (and oil shale and kerosene shale mines) and certain related places.	Underway. Legislation to be modernised. Consultation to occur via a Green Paper released on 1 August 2000 which incorporates relevant points from related NCP issues paper.
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Police

Act	Review Year	Objective	Status
Wool, Hides and Skins Dealers Act 1935	1995/96	Regulates the buying and selling of wool, hides and skins.	Underway. Review report complete but Government consideration postponed pending outcomes of the Pastoral and Agricultural Crime Working Party.
Security (Protection) Industry Act 1985	1995/96	Provides for the licensing and regulation of persons carrying on, or employed in, the business of providing security and protection for persons or property.	Complete. Act has been repealed and replaced by the <i>Security Industry Act 1997</i> .
Commercial Agents and Private Inquiry Agents Act 1963	1996/97	Provides for the licensing and control of commercial agents, private inquiry agents and their subagents.	Underway.

Ports and Waterways

Act	Review Year	Objective	Status
Marine Safety Act 1998		<p>Marine Safety Act 1998 repealed and consolidated the following Acts</p> <ul style="list-style-type: none"> • <i>Commercial Vessels Act 1979</i> Regulates the use of certain vessels and of certain motors for propelling vessels; provides for marking of load lines and the carriage of certain equipment by vessels. • <i>Maritime Services Act 1935</i> Provides for the constitution of the Maritime Services Board of NSW and its powers. • <i>Marine Pilotage Licensing Act 1971</i> Provides for the licensing of pilots. • <i>Navigation Act 1901</i> Consolidates the Acts relating to navigation. 	<p>Underway. Some anti competitive elements of former Acts dealt with under Licence Reduction Program with 10 licences and permits abolished from 2 February 1997 under the <i>Regulatory Reduction Act 1996</i>.</p> <p>Remainder of NCP issues in new Marine Safety Act are being reviewed in conjunction with the <i>Ports Corporatisation and Waterways Management Act 1995</i>.</p>
Ports Corporatisation and Waterways Management Act 1995	1999/2000	Establishes statutory state-owned corporations to manage the State's port facilities on major ports; transfers waterways management and other marine safety functions to the Minister; establishes the Waterways Authority and provides for port charges, pilotage and other marine matters.	<p>Underway. Being reviewed in conjunction with the review of the <i>Marine Safety Act 1998</i>.</p>

Public Works and Services

Act	Review Year	Objective	Status
Architects Act 1921	1995/96	Provides for the registration of architects and regulation of the practice of architecture.	<p>Underway. National review being undertaken by the Productivity Commission. Final report due in August 2000.</p>

Public Sector Management (Goods and Services) Regulation 1995	1998/99	The Regulation establishes the State Contracts Control Board, which arranges for the supply of goods and services and disposal of goods for the Public Service.	Underway. The regulation is currently subject to a joint NCP and <i>Subordinate Legislation Act 1989</i> review. A RIS has been released for public consultation. The RIS recommends that the regulation be re-made with existing coverage and application.
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Roads

Act	Review Year	Objective	Status
Driving Instructors Act 1992	1995/96	Provides for the licensing of driving instructors and repeals the <i>Motor Vehicle Driving Instructors Act 1961</i> .	Underway. Final report being prepared.
Traffic Act 1909	1997/98	Provides for the regulation of vehicles and of vehicular and pedestrian traffic.	Complete. Act repealed.
Roads Act 1993	1997/98	Makes provision with respect to the roads of NSW. Repeals certain Acts.	Underway.

Sport and Recreation

Act	Review Year	Objective	Status
Motor Vehicle Sports (Public Safety) Act 1985	1995/96	Makes provision for the control and regulation of meetings for motor vehicle racing.	Underway. Issues paper being finalised by consultants.
Boxing and Wrestling Control Act 1986	1995/96	Regulates the conduct of professional boxing; constitutes the Boxing Authority of NSW and defines its functions; regulates the conduct of wrestling and amateur boxing contests.	Underway. Issues paper being prepared by consultants.

State Development

Act	Review Year	Objective	Status
Country Industries (Payroll Tax Rebates) Act 1977	1996/97	Allows rebates of payroll tax in respect of certain country manufacturing or processing industries.	Underway. Joint review in conjunction with <i>State Development and Industries Assistance Act 1966</i> and <i>Small Business Loans Guarantee Act 1977</i> (below).
State Development and Industries Assistance Act 1966	1997/98	Constitutes the Minister administering the Act as a corporation sole and confers certain powers on that sole relating to the establishment, expansion and development of certain industries and to the acquisition of land.	Underway. Joint review (see above).
Small Business Loans Guarantee Act 1977	1997/98	Authorises the execution of guarantees for the repayment of loans made to certain small businesses.	Underway. Joint review (see above).
Retail Leases Act 1994	1997/98	Makes provision with respect to the leasing of certain retail shops and the rights and obligations of lessors and lessees of those shops.	Underway.

Department of the Surveyor-General

Act	Review Year	Objective	Status
Surveyors Act 1929	1995/96	Provides for the registration of surveyors of land, regulates the making of surveys.	Underway. Issues Paper being finalised. Some delay has occurred as a result of a transfer of Ministerial responsibility for this legislation.

Transport

Act	Review Year	Objective	Status
Tow Truck Act 1989	1995/96	Provides for a licensing and certification scheme for tow truck drivers and operators; regulates other matters and constitutes the Tow Truck Industry Council.	Not commenced. Act repealed and replaced by <i>Tow Truck Act 1998</i> . Operational arrangements under the new regulatory scheme are being finalised. NCP review will commence after 6 months operation of new scheme.
Air Transport Act 1964	1995/96	Prohibits, in certain circumstances, the carriage by aircraft of passengers or goods from one place to another within NSW except if a licence is granted by the Minister. Amends certain Acts.	Completed Following the review, the Government agreed to deregulate intrastate aviation. The Government's initial approach was to do this via a repeal Bill (introduced to Parliament in 1998). However, the Upper House did not pass the Bill because of concerns about the impact on regional air services. Subsequently, the Government announced in August 1999 that it would pursue deregulation via administrative means. Restrictions on the number of airlines that operate on routes to and from Sydney Airport, with annual air patronage exceeding 20,000, were removed, effective 26 March 2000. These 17 routes account for 86% of all intrastate passenger journeys.
National Rail Corporation (Agreement) Act 1991	1996/97	Approves and gives effect to an agreement between NSW, the Commonwealth and other States relating to the National Rail Corporation Ltd.	Not commenced. Will need to be a national review.
Parking Space Levy Act 1992	1996/97	To discourage car use in business districts by imposing a levy on off-street parking and using the revenue to develop infrastructure and encourage the use of public transport.	Complete. Act retained on the basis that competition restrictions were notional only.

Act	Review Year	Objective	Status
Passenger Transport Act 1990	1997/98	Regulates public transport services – buses, taxis, hire cars and ferries	Underway. Buses - complete. Taxis/hire cars – final report is with the Government. Ferries - yet to commence.
Rail Safety Act 1993	1999/2000	To promotes the safe construction, operation and maintenance of railways.	Not commenced. Review deferred pending completion of Inquiry into Glenbrook Accident.

Treasury

Act	Review Year	Objective	Status
Business Franchise Licence (Petroleum Products) Act 1987	1995/96	Provides for the licensing of people carrying on the business of selling certain petroleum products.	Complete. Legislation was repealed in December 1997.
Business Franchise Licence (Tobacco) Act 1987	1995/96	Provides for the licensing of people carrying on the business of selling tobacco.	Complete. Legislation was repealed in December 1997.
Payroll Tax Act 1971	1995/96	Imposes a tax upon employers in respect of certain wages and provides for the assessment and collection of the tax.	Underway. State Heads of Treasury commenced a national review of compliance arrangements associated with payroll tax. The Victorian Government is providing the Secretariat. The Review Group is currently looking at contractor provisions and the implications of the Ralph Report. Furthermore, in order to achieve uniformity between the Commonwealth and the States, the Review Group is looking at the new Commonwealth legislation relating to personal service businesses.

<p>Public Finance and Audit Act 1983 (1)</p> <p>Public Authorities (Financial Arrangements) Regulations 1997 (2)</p>	<p>1995/96</p>	<p>(1) Makes provision with respect to the administration and audit of public finances.</p> <p>(2) Makes provisions with respect to certain financial arrangements and investments of public authorities; constitutes the NSW Capital Works Financing Corporation.</p>	<p>Underway.</p> <p>Inquiry into the <i>Public Finance and Audit Act (1983)</i> commenced in 1997. A consultative document was circulated in July 98. It has been delayed due to the Standing Committee No 1 Inquiry into the current provisions for the appropriation of moneys and authorisation of expenditures.</p> <p>New legislation has been introduced that broadens the scope and coverage of the Public Authorities (Financial Arrangements) Regulations 1997.</p>
<p>Friendly Societies Act 1989</p>	<p>1997/98</p>	<p>Provides for the formation, registration, management and regulation of friendly societies and to consequently appeal and amend certain other legislation.</p>	<p>Review unnecessary.</p> <p>In 1999 NSW reached agreement with the Commonwealth regarding the transfer of prudential regulatory responsibilities for credit unions, building societies and friendly societies to the Commonwealth, to take effect from 1/7/99. The <i>Friendly Societies Reform (NSW) Act 1999</i> was passed to give effect to this transfer and the <i>Friendly Societies Act 1989</i> was repealed accordingly.</p>
<p>Petroleum Products Subsidy Act 1965</p>	<p>1997/98</p>	<p>The Act implements a Commonwealth scheme that provides for the subsidisation of fuel transport costs in rural areas.</p>	<p>Review unnecessary.</p> <p>The Act is expected to be repealed.</p>
<p>Government Guarantees Act 1934</p>	<p>1997/98</p>	<p>Validates certain guarantees given to certain banks by the Treasurer or pursuant to Minutes of the Governor and Executive Council; authorises the Treasurer to execute certain guarantees in certain cases; makes certain contingent appropriations out of the Consolidated Revenue Fund and to amend certain Acts.</p>	<p>Complete.</p> <p>The review completed in January 2000 found that there was potential for the implementation of the Act to contravene competitive neutrality principles. The Treasurer will issue a Circular requiring Ministers to include analysis of wider public interest issues in applications for government guarantees under any Act authorising their issue.</p>

Superannuation Administration Act 1996	N.A.	Provides for trustees for State public sector superannuation schemes and the provision of investment and administration services for such schemes. Constitutes the Superannuation Administration Authority of NSW.	Complete. Legislation for corporatisation of the Superannuation Administration Authority was introduced into Parliament in May 1999. The legislation provided for fixed super administration contracts to be put in place for 3-5 years, following which competitive tendering will apply. No residual anti-competitive provisions will remain following the expiry of these transitional contracts.
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Urban Affairs and Planning

Act	Review Year	Objective	Status
Land Development Contribution Act 1970	1997/98	Levies a contribution in relation to certain land within the Sydney region.	Review unnecessary. The Act was introduced to collect contributions from developers who benefit from rezonings. The Act has not been used to collect contributions for several years, and the subordinate legislation which provided the power to collect contributions has been repealed. The Act is likely to be repealed when the funds have been spent or allocated to other funds.

Annexure 3:

State Reviews of Regulatory Restrictions on Competition - Planning, Land Use and Natural Resource Approvals Systems

Projects	Status
1. Development of policy options for integrated approvals system.	<i>Complete</i> Integrated Development amendments commenced 1 July 1998.
2. Review of referrals and concurrences in local environmental planning policies.	<i>Underway</i> The first stage of the review is complete with approximately 1420 clauses identified with around 650 marked for deletion and approximately 300 to be retained.
3. Extend Guarantee of Prompt Service to concurrent approvals under the Environmental Planning and Assessment Act.	<i>Complete</i> New concurrence processes in place since 1/7/98 reduce timeframes from 80 days to 60 days.
4. Review of multiple controls on land clearing State Environmental Planning Policy (SEPP) 46.	<i>Complete</i> SEPP 46 was replaced by the Native Vegetation Conservation Act 1997, which came into force on 1/1/98, following a detailed public consultation and review process.
5. Integration of total catchment management objectives in planning instruments.	<i>Underway</i> Considered as part of the Department of Urban Affairs and Planning (DUAP) discussion paper 'Plan Making in NSW: Opportunities for the future' which canvassed options to improve the plan making system under the <i>Environmental Planning and Assessment Act 1979 (EP&A Act)</i> . Will be further considered in the White Paper on Plan Making to be released this year. In addition, the <i>Outcomes of the review of Total Catchment Management in NSW</i> was published in December 1997 and its 35 actions are currently being implemented, including:

	<ul style="list-style-type: none"> • a State Catchment Management Coordinating Committee and local councils joint strategy to achieve greater local government participation and commitment to TCM; • the Department of Land and Water Conservation, in consultation with DUAP and the Department of Local Government, will examine measures to promote consistency and compatibility between Catchment Management Committee and Catchment Management Trust strategies and policies, and the requirements of the EP&A Act and the Local Government Act 1993.
6. Examination of feasibility of incorporating plans for: river management; land management; habitat management; environment protection; forestry reserves into planning instruments under the Environmental and Planning Assessment (EP&A) Act.	<p><i>Underway</i></p> <p>Considered as part of the DUAP discussion paper '<i>Plan Making in NSW: Opportunities for the future</i>'. To be further explored in the forthcoming White Paper on the issue.</p>
7. Review and reform of regulations affecting mining.	<p><i>Underway</i></p> <p>NSW Department of Mineral Resources is currently conducting reviews of the <i>Mines Inspection Act 1901</i> and the <i>Coal Mines Regulation Act 1982</i>.</p>
8. Review and reform of regulations affecting mariculture.	<p><i>Underway</i></p> <p>NCP review of the <i>Fisheries Management Act 1994</i> has commenced. An issues paper is currently being finalised.</p>
9. Review and reform of regulations affecting forestry including the corporatisation of State Forests.	<p><i>Underway</i></p> <p>The <i>Forestry and National Parks Estate Act 1998</i>:</p> <ul style="list-style-type: none"> • provides for the making of Forest Agreements in NSW; and • streamlines and integrates the existing regulatory environment by linking existing licences under an Integrated Forestry Operations Approvals process. <p>Full corporatisation of State Forests' commercial activities is yet to occur.</p>

10. Review of s90 EP&A Act 'heads of consideration' for development consent.	Complete Section 79C of the reformed EP&A Act introduces generic heads of consideration streamlining old processes.
11. Review potential for increasing 'as of right developments'.	Complete Completed with the introduction of State-wide complying/exempt development in April 2000. 85 percent of councils in NSW have some form of complying/exempt development.
12. Consider potential for private certification of building, sub-division water and sewerage approvals.	Complete Reforms to development assessment system introduced 1 July 1998 contains certification for building and subdivision.
13. Integrate building and planning approvals.	Complete Reforms to development assessment system combined the development, building and subdivision approval processes.
14. Examine zoning prohibitions for anti-competitive effects; consider wider adoption of performance standards.	Underway Examined in the Discussion Paper on Plan Making Process. Will be further explored in the White Paper. DUAP is encouraging performance standards in other areas, eg. NSW Model Code for Multi-Unit Housing.
15. Review and reform development without consent (SEPP 4) for change of use in industrial areas.	Complete Undertaken through the establishment of the new categories of Exempt and Complying Development under the EP&A Act.
16. Consider combining development and re-zoning applications.	Complete EP&A Act amended to allow for this situation.
17. Review heritage approvals and consider better integration with Development Approval/Building Approval (DA/BA) processes.	Complete Heritage approvals now integrated under the EP&A Act. Heritage Act amendments streamline the process where development is in accordance with a Conservation Plan.

<p>18. Consider potential for standardising consent conditions, zoning classifications and definitions as performance standards.</p>	<p><i>Underway</i> DUAP will be working with councils through advisory notes to improve consent conditions. A set of standard conditions or principles for conditions is being worked on to get greater consistency. Discussion Paper on Plan Making process examined zoning and the White Paper will further develop ideas.</p>
<p>19. Stage II review of pollution control acts to streamline and rationalise licensing procedures.</p>	<p><i>Complete</i> The Protection of the <i>Environment Operations Act 1997</i> (PoEO Act) and regulations commenced on 1 July 1999, replacing five core pollution control statutes and providing for stronger environment protection, while streamlining the licensing process. Businesses now require only one environment protection licence that recognises the ongoing, long-term nature of operations.</p>

20. Review water legislation and licensing.

Underway

In the Spring 1997 session of Parliament:

- the *Water Administration Act* was amended to require decision makers to have regard to ESD;
- the *Water Act* was amended to enable appropriate licensing of large water users; new rules for temporary trading in regulated river systems; and new groundwater licensing powers.

In April 1998, the discussion paper '*Water Sharing in NSW, Access and Use*' was released. A White Paper on Water Management Legislation was subsequently issued in December 1999 for comment by the end of March 2000.

In the 1999 Spring Session the *Water Act* was amended to:

- allow for landholders' harvestable right to 10% of run-off water on their farms;
- remove third party appeal rights for existing works which did not previously need licensing, but must now be licensed and have been registered under the Water Amnesty;
- allow for DLWC to embargo licences for harvesting run-off above harvestable rights; and
- allow for licensing of Great Artesian Basin Trust bores.

On 22 June 2000, a new *Water Management Bill* was introduced into Parliament, for debate during Spring Session. The Bill consolidates many of the Government's water reforms, such as allocation of environmental flows and water management planning, which have been occurring without a legislative basis, and will introduce new arrangements for water allocation and trading, in line with outstanding commitments under the COAG water reform framework.

<p>21. Develop framework for Coordinated/Integrated Development Approval Conditions and other requirements and advice on the use of the framework.</p>	<p>Underway DUAP has been working on Best Practice Guidelines and education requirements with agencies involved in Integrated Development as part of the publication of <i>Guiding Development: better outcomes</i>.</p>
<p>22. Develop Best Practice Guidelines for a Coordinated/Integrated Development Approval System for Mining and Extractive Industry.</p>	<p>Complete Guidelines were issued in September 1997. Relevant amendments to the EP&A Act came into effect in July 1998.</p>
<p>23. Develop Best Practice Guidelines for Planning Focus.</p>	<p>Complete Guidelines have been prepared.</p>
<p>24. Develop Best Practice Guidelines for Community Consultation.</p>	<p>Underway NSW Minerals Council has released 'Best Practice Community Consultation Guidelines'. Examined in the Discussion Paper on Plan Making Process. Community consultation issues will be further explored in the White Paper.</p>
<p>25. Review of endangered species legislation so as to integrate licenses and DAs.</p>	<p>Complete The <i>Threatened Species Conservation Act 1995</i> amended the <i>National Parks and Wildlife Act 1974</i> to integrate licences and development applications/consents with respect to harming, picking threatened species populations or ecological communities. The relevant section of the <i>National Parks and Wildlife Act</i> is Section 18A (3) (b). This amendment took effect on 1 January 1996.</p>
<p>26. Adopt reformed Australian Building Code (as performance standards) with minimal variations.</p>	<p>Complete Performance-based 1996 Building Code of Australia was adopted in NSW.</p>
<p>27. Convert siting rules to performance standards.</p>	<p>Complete Provisions relating to fire standards were repealed on 1 July 1999. These siting standards are now controlled through the performance-based Building Code of Australia, and through councils' Local Environment Plans and Development Control Plans. Other siting requirements are controlled under LEPs and DCPs where necessary.</p>

<p>28. Extend and improve performance benchmarking of local councils.</p>	<p><i>Ongoing</i> The Government is continuing to improve the comparative performance information it collects and publishes annually on local councils.</p> <p>DUAP is working on a benchmarking program to measure the effectiveness of the development assessment system in NSW. This program will be supplemented by an auditing program of council's performance as part of the movement to the decentralisation of development assessment fees.</p>
<p>29. Public consultation to improve operation of current approval rights and dispute resolution system.</p>	<p><i>Underway</i> DUAP is monitoring implementation of this issue as part of its ongoing assessment of the operation of the planning system.</p>
<p>30. Examine the potential for consolidating land, water and related natural resource management legislation into a single statute.</p>	<p><i>Underway</i> Examined in the Discussion Paper on the Plan Making Process - integration of planning and natural resource management. Very little support emerged for the option of a single planning and resource management Act. In light of this, the intention not to pursue this option in the Part 3 review will be presented in the White Paper.</p>

Annexure 4:

Complaint summary form

Formal complaint

Date of receipt of complaint	Target of complaint	Nature of complaint (1)	Findings of investigation and recommendation	Date of formal advice to complainant	Date of formal advice to target of complaint (2)	Action taken or proposed following recommendation (3)	Other relevant information
31.8.98	Albury City Council	Council using its monopoly position and imposing unfair, overpriced airport services to an airline operator.	Allegation treated as a competitive neutrality complaint and council's handling of the matter reviewed. Review found that the council had not breached competitive neutrality principles or the Department's Pricing Guidelines.	21.12.98	11.12.98	Department suggested to council that it review its policies for pricing its goods and services	N/A

(1) Brief description including any issues peculiar to the complaint

(2) Including any action by: Minister, target of complaint and dissatisfied complainants.

(3) Including reason for delay in resolving complaint where applicable.