



NORTHERN TERRITORY OF AUSTRALIA

Annual Report  
on the  
Implementation of  
National Competition Policy  
2002

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## **Introduction**

In April 1995 all State and Territory Governments, with the Commonwealth, signed three intergovernmental agreements which together form National Competition Policy:

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

Under Clause 3 (10) and 5 (10) of the Competition Principles Agreement (CPA) all parties to the agreement are required to report annually on progress towards fulfilling the competitive neutrality and legislative review requirements of the Agreement.

### ***NT Annual Report 2002***

This Annual Report provides information relevant to each priority area identified in the National Competition Council's (NCC) *Assessment of Governments' progress in Implementing the National Competition Policy and Related Reforms* and associated working papers. Specific information that was requested by the NCC in the assessment document has also been provided. Where possible, review information is in the form of the legislation review report. Copies of review reports are located in the appendices at the end of the report.

As requested, information on legislation review and reform in areas not identified as a priority will be provided in a subsequent report.

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## Chapter 1 - Competitive Neutrality

In the Northern Territory, competitive neutrality has principally been implemented through the commercialisation of all significant government business operations, referred to as Government Business Divisions (GBDs).

### **Coverage of Significant Businesses**

Northern Territory Treasury Corporation, the Territory's central borrowing authority, was officially established as a GBD on 1 July 2001.

### **Corporate Governance Reforms**

The Territory is implementing a range of reforms based on a "shareholder" model of corporate governance. This is being achieved under the recently enacted *Government Owned Corporations Act*, which provides for the establishment and operation of Government Owned Corporations (GOCs). The Act will be applied, on a case-by-case basis, to large government businesses that operate in direct competition with the private sector.

In order to enhance managerial autonomy, GOCs will be established as statutory corporations outside the scope of the budget and public account. GOCs will be managed by a commercial board of directors accountable to a Shareholder Minister for financial performance, while a Portfolio Minister will be responsible for industry-wide policy matters. Further information is available in the Territory's Mini Budget 2001-02, *Fiscal and Economic Outlook* (Paper No.3, Chapter 5).

The GOC framework is expected to apply initially to the Territory's largest GBD, the Power and Water Authority, from 1 July 2002.

### **Competitive Neutrality Complaints**

The Northern Territory Treasury currently handles all complaints regarding breaches of competitive neutrality principles. Treasury received no formal complaints during the 2001 calendar year.

## Chapter 2 - Electricity

As the Northern Territory is not part of the National Electricity Market, there are no specific electricity reform obligations on the Territory. However, a comprehensive electricity supply industry reform program has been implemented over the past three years. Details of the overall reform framework have previously been provided to the Council.

Developments during 2001 include the formal certification of the Territory's electricity network third party access code. The Territory Government formally submitted its application for certification in 2000. Following its formal consultation process, in December 2001 the NCC recommended to the Commonwealth Minister that the Northern Territory electricity networks access regime be certified as effective. The Commonwealth Minister accepted the recommendation and certified the regime as effective from 21 March 2002 for a period of 15 years.

### **Full Retail Contestability - Public Benefits Review**

A public benefit review of full retail contestability for electricity will be undertaken during 2002.

### **Legislation Review**

#### ***Power and Water Authority Act***

All electricity related amendments have been made to the *Power and Water Authority Act*, except the removal of the Power and Water Authority's local government rate exemption. This amendment is to be made as part of the introduction of the *Government Owned Corporations Act*. Section 33(2) of the *Government Owned Corporations (GOC) Act* states that "a GOC that is exempt from the requirement to pay an amount to a council under the *Local Government Act* must pay to the Consolidated Revenue Account for each financial year an amount that is equal to the amount the corporation would have been liable to pay to a council under the *Local Government Act* in the financial year if the corporation were not exempt from the requirement to do so."

The Northern Territory's *Government Owned Corporations Act* was assented to in December 2001. While this Act will apply to the Power and Water Authority (PAWA) from 1 July 2002, PAWA has been paying local government rate equivalents since 1 July 2001. This is an interim measure pending the development of budget neutral arrangements with regards to local government grants. Once appropriate mechanisms are in place, PAWA will make payments directly to relevant local governments. Subsequent amendments required to section 19 (Exemption from rates) of the *Power and Water Authority Act* were passed in December 2001, but will not be enacted until PAWA becomes a Government Owned Corporation. This process will result in the finalisation of the National Competition Policy Legislation Review of the *Power and Water Authority Act*.

## Chapter 3 - Gas

### Access Reform Progress

As reported in the 2000 Annual Report, the Territory implemented the *Gas Pipelines Access (Northern Territory) Act* (the Act) and consequential amendments in late 1998.

However, the application to the National Competition Council (NCC) for certification of the access regime did not occur immediately after commencement of the Act and was delayed pending the resolution of certain issues.

The Territory Government formally submitted its application for certification in early 2001. Following its formal consultation process, in March 2001, the NCC recommended to the Commonwealth Minister that the Northern Territory Access Regime be approved. The Commonwealth Minister accepted the recommendation and approved the regime on 4 October 2001.

During 2002, the Territory legislation will be required to be amended in response to the High Court '*Wakim*' decision and relevant Ministers in all other jurisdictions have approved the proposed changes.

The Northern Territory is a member of NGPAC (National Gas Pipelines Advisory Committee). The Territory has participated in NGPAC meetings over the past 12 months and contributed to the development of an on-going set of Code amendments.

### Derogations and Retail Contestability

The Territory has not legislated for any derogations under Clause 12 of the 1997 COAG Gas Agreement.

Given that the Territory currently has only one significant gas retail customer (Power and Water Authority), retail contestability arrangements are still not considered relevant to the Territory at this stage.

### Legislation Review

#### *Oil Refinery Agreement Ratification Act*

The *Oil Refinery Agreement Ratification Act* is to be repealed during the May 2002 sittings of the Northern Territory Legislative Assembly.

### ***Petroleum (Submerged Lands) Act***

This legislation is subject to a national review. The Territory is awaiting Commonwealth action to amend the Model Act in line with the recommendations.

### ***Trade Measurement Act***

A national review is being conducted. Advice received indicates that the review is unlikely to be finalised by June 2002. The Standing Committee of Consumer Affairs Officers (SCOCA) is coordinating the review and is dealing directly with the National Competition Council for the 2002 assessment.



## Chapter 4 – Water

This chapter provides information on progress with specific aspects of the COAG reform framework identified by the Council as priorities for the 2002 assessment.

### **Public Education Programs**

The community-based Alice Springs Urban Water Management Strategy reference group has initiated WaterWise NT for 2002. It operates primarily as a school-based program but also actively promotes increased general awareness of water issues through community events, public displays, print and electronic media advertising and other general promotional activities. A facilitator is permanently based in Alice Springs to support the program.

School students are recognised as major drivers of change in terms of influencing attitudes and behaviour towards water use over the longer term. Accordingly, WaterWise NT was successfully trialed at a major Alice Springs secondary school during 2001. Secondary schools are the initial targets for the program followed by primary schools. It is envisaged that the program will be established in all 63 schools in the Alice Springs area, with a focus on schools in remote regions, and ultimately extended throughout the Northern Territory in coming years.

The primary objectives of WaterWise NT are to raise awareness of the vital importance of water to communities and natural ecosystems, to improve public awareness of the various impacts of water usage on the environment, to introduce water saving programs and to promote water conservation principles.

The program is built around schools receiving accreditation for actively contributing to each of the program's objectives. Official recognition as a WaterWise School is granted when various accreditation criteria are met. Accreditation criteria include: the introduction of an environmental curriculum unit with a strong water component and incorporating practical activities; the adoption of a water education policy to influence attitudes and behaviour in regard to water conservation; and practical demonstration that the school has developed skills in responsible water use at school, at home and in the community.

Alice Springs' potable water supply is drawn from the Roe Creek Borefield, where water levels are dropping by 1 metre per year on average. Average daily usage is about 1 480 litres per person, with total consumption varying between 14 million and 42 million litres per day. Successfully managing demand on the borefield, through the implementation of the WaterWise NT program, should defer the need for new infrastructure such as bores and sewerage treatment ponds.

Public education activities in Alice Springs have been complemented by ongoing consultation with irrigators in the Katherine and Ti Tree regions regarding the Northern Territory's interim policy on environmental flows (no more than 20% diversion of surface and/or groundwater). The Territory's participation in the annual National Waterweek represents an additional public education function.

## **Provision for the Environment – Research Programs**

A package of five major research projects into environmental water requirements has been conducted in the Daly Basin of the Northern Territory, with funding support from the National River Health Program's Environmental Flows Initiative. Research initiatives include:

- 1) *Periphyton and Phytoplankton Response to Reduced Dry Season Flows in the Daly River*

The objective of the program is to evaluate the effect of reductions in dry season flow on water quality, suspended algae (phytoplankton) and substrate algae (periphyton).

Owing to their short lifetime (a scale of days), periphyton and phytoplankton are likely to be sensitive to the hydrological and water quality impacts associated with water allocation and provide the first indication of ecological impact of reduced flows.

- 2) *Modelling Dry-Season Flows and Predicting the Impact of Water Extraction on a Flagship Species*

The focus of the research is to provide recommendations on environmental flows consistent with maintaining the biota of the Daly River, given the competing demands of agriculture, recreation and tourism, conservation and Aboriginal culture.

- 3) *Groundwater Utilisation of Riparian and Rainforest Vegetation in Two Tropical Catchments*

Research is aimed at determining seasonal rates of water use of rainforest and riparian vegetation and to assess the seasonal source of water used by vegetation. Groundwater dependence and environmental flows required to maintain these vegetation types are being assessed.

- 4) *Environmental Flow Requirements of *Vallisneria Nana* and Dependent Macroinvertebrate Fauna*

The objective of the project is to map the distribution pattern of *Vallisneria Nana* (water grass) patches and measure performance at the population level. The habitat preferences of *Vallisneria Nana* will allow predictions of the response of this species to altered flow.

The use of *Vallisneria Nana* beds by fauna are being investigated as part of understanding the broader habitat role of aquatic macrophytes and the possible consequences of altered flow.

- 5) *Inventory and Risk Assessment of Water Dependent Ecosystems in the Daly Basin*

The project aims to map the area, location and extent of water dependent ecosystems (floodplains, stream channels, wetlands, sink-holes); establish threats from water use and land management practices; identify ecosystems most at risk,

and assess the extent of this risk; and provide a mapping-base describing habitats critical for other key indicator species in the Daly basin.

The inventory and risk assessment research project was completed in October 2001. Final reports on the remaining research initiatives are expected to be finalised by 30 June 2002.

All project leaders have collaborated from the instigation of the integrated research package and will reconvene after full completion to make recommendations about specific environmental water requirements. These recommendations will be considered by relevant Northern Territory agencies by the end of September 2002. Public workshops, which will also facilitate consultation on the Daly Region Water Strategy, will then be held in November/December 2002.

### **Externalities**

Consistent with the COAG water reform framework, the Power and Water Authority (PAWA) is required to comply with a range of environmental and resource management operational standards. To the extent that these requirements increase the operating costs of the service provider, they will be reflected in water and waste water prices. However, the Northern Territory does not charge urban water services a separate levy to reflect the cost of environmental externalities.

Recognition of external environmental costs, incurred through the provision of urban water services, is not considered necessary at this stage of the Territory's economic development because current levels of water consumption and irrigation appear to be insufficient to have any significant environmental implications.

A Trade Waste Management System (TWMS) was introduced on 1 January 2002 to apply charges for the discharge of trade waste to PAWA's Sewerage System. The TWMS is to be implemented with an emphasis on self-regulation by industry and embraces the 'user pays' principle in line with the COAG Water Reform initiatives.

PAWA published an environment report for the first time as part of the 2001 Annual Report package. The report details the environmentally sustainable manner in which PAWA provides services in the Territory.

### **Tax Equivalent Regimes for Metropolitan Service Providers**

PAWA is established as a Government Business Division and hence is subject to the Territory Government's competitive neutrality policy statement. Prior to July 2001, PAWA made tax equivalent payments in accordance with the Territory's tax equivalent regime. Since then, PAWA has been required to comply with the national tax equivalent regime.

The Territory's tax equivalent regime was amended to facilitate the payment of local government rate equivalents by PAWA from 1 July 2001. This is an interim measure pending the development of budget neutral arrangements with respect to local government grants. Once appropriate mechanisms are in place, the Authority will pay rates directly to relevant local governments.

## **Cross Subsidies**

The Northern Territory has progressed with its commitment to transparently report cross subsidies in the delivery of water and waste water services. Tables detailing the extent to which cross subsidisation occurs in the Territory were published in PAWA's 2001 Annual Report.

Community Service Obligation (CSO) funding is provided to subsidise water and waste water charges for pensioners in all Territory centres. Additional CSO funding is provided for services in the Katherine, Tennant Creek and Alice Springs regions in order to maintain uniform tariffs across the Territory.

PAWA's 2001 Annual Report demonstrates that, after the inclusion of CSO payments, waste water services in Darwin, Katherine and Alice Springs cross subsidise waste water operations in Tennant Creek while water supply services in Darwin and Katherine cross subsidise those in the Alice Springs and Tennant Creek regions.

Future price pathway submissions to PAWA's Portfolio Minister will be based on the phased elimination of the cross-subsidies, including the extent to which government users cross subsidise commercial and domestic customers.

## **Enforcement of Drinking Water Standards**

Under Section 45 of the *Water Supply and Sewerage Services Act*, the Regulatory Minister has the authority to determine minimum service delivery standards, including water quality standards, for licensed water suppliers. Licensees are required to monitor and report on compliance with prescribed standards to the Utilities Commission.

On 6 February 2002, the Utilities Commission issued an urban water supply licence to the Power and Water Authority (copies of the licence are available from the Utilities Commission website at [www.utilicom.nt.gov.au](http://www.utilicom.nt.gov.au)). Clause 18 of the licence provides for the application of water quality service standards.

PAWA is moving to introduce the Drinking Water Quality Management Framework into major and regional water supplies in the Territory. PAWA is also a member of the Cooperative Research Centre (CRC) for Water Quality and Treatment, which is currently undertaking research and technology transfer as part of the ongoing development of the Australian Drinking Water Guidelines.

## **Chapter 5 - Road Transport**

The Northern Territory has either implemented the majority of its Third Tranche reforms, or is exempt from aspects of the reform package endorsed by the Australian Transport Council for the Third Tranche assessment.

### ***Outstanding Third Tranche Issues***

#### ***Combined Vehicle Standards***

Draft regulations have been prepared and are currently being refined by the Department of Infrastructure, Planning and Environment, prior to their expected introduction in late 2002.

### ***Reforms from the original NCP road transport program***

The Territory considers that the assessments for any outstanding inter-governmental road transport reforms from the original 1995 program are more appropriately addressed outside the NCP assessment process.

### **Legislation Review**

#### ***Dangerous Goods Act and Regulations***

The Northern Territory proposes to have separate legislation for transport and handling, as this will allow the Territory to call up the national regulations for transport. Drafting of the necessary legislation has commenced.

## **Chapter 6 – Taxi Services**

In November 2001 the Northern Territory Government, in response to concerns with public disputation among industry participants and reports of a decrease in incomes, decided to impose a temporary (6 month) cap on the number of minibus, private hire cars and taxi licenses with the exception of wheel chair accessible taxis.

The Government also announced its intention to review the regulatory framework for the minibus, private hire car and taxi sectors with the objective of developing a sustainable high quality service to the Northern Territory public and the tourism industry. Public input has been invited through advertising and extensive consultation initiated with industry participants and organisations.

The Territory will endeavour to keep the National Competition Council informed on the review outcomes and further developments in this area.

## Chapter 7 - Other Transport Services

### Legislation Review

#### *Harbourcraft By-laws*

The review of the *Darwin Port Corporation Act* and Port and Harbourcraft By-laws was finalised in 2000 with government accepting the findings of the review in early 2001. The details of the review were reported in the Territory's last annual report. Subsequent to this, the Council identified the repeal of Harbourcraft By-laws as the outstanding issue for the 2002 assessment.

It is envisaged that the Harbourcraft By-laws will be repealed prior to June 2002.

#### *Marine Pollution Act*

The purpose of the *Act* is to protect the Northern Territory's marine and coastal environments by minimising intentional and negligent discharges of ship-sourced pollutants through giving effect to the MARPOL international convention dealing with pollution by oil, noxious liquid substances in bulk, harmful substances in packaged form, sewerage and garbage.

The *Act* applies to all ships operating in Territory coastal waters except for military vessels and ships conducting non-commercial activities.

The Minister for Transport and Infrastructure Development introduced the *Marine Pollution Bill* in the Legislative Assembly on 10 August 1999, and the *Act* was assented to on 12 August 1999. The *Act* is to commence once the *Regulations* are complete and the necessary administrative arrangements are in place. At this stage, commencement is anticipated to be as early as mid-2002.

The review commenced in October 2000 and was completed in September 2001. The Review Report, Attachments and associated Cabinet Submission were circulated to key government agencies in October/December 2001 for final comment prior to submitting it for Government consideration in January 2002.

In the lead up to developing the *Act*, the then Department of Transport and Works consulted with shipowners, port administrators, sporting bodies and members of the public. Letters were forwarded to individual shipowners and Port Authorities outlining the proposed provisions of the legislation. There were no concerns expressed at the time in relation to technical, compliance cost or anti-competitive issues. Feedback established full support for this new piece of legislation.

Prior to commencing work on developing draft Regulations under the *Marine Pollution Act*, a series of meetings were held with marine industry bodies and representatives from various government agencies to explain the proposed approach

to formulating the regulations. Again there were no concerns (technical, compliance cost or anti-competitive) raised by industry members during this consultation process.

This piece of legislation is intended to promote the protection of marine and coastal environments and public safety. It also provides for a level playing field among industry participants by not conferring economic advantage on particular industry sectors or participants – that is, it does not impose restrictions on competition through selective targeting of specific sections of the maritime industry.

A close examination of the 100 clauses contained in the *Marine Pollution Act* shows that none of the provisions of the *Act* impede competition within the respective sectors of the maritime market, nor do they constitute barriers that prevent new players entering the market or existing participants leaving the market.

The *Act* does have a number of clauses, which restrict the discharge of environmental pollutants in certain circumstances and allow it in other circumstances. Generally no pollutants can be discharged into coastal waters. However, some pollutants not permitted to be discharged in coastal waters can be discharged from vessels plying waters outside the 12 nautical mile limit. Notwithstanding this, the *Act* imposes severe penalties for the wrongful discharge of pollutants such as oil, noxious liquid substances, harmful substances, sewage and garbage into coastal waters.

The review considered whether the statutory restrictions on discharge of certain substances from vessels and the associated penalties for non-compliance constitute unnecessary restrictions on competition. The review team determined that, when considered against the context of the costs of externalities resulting from the uncontrolled release of pollutants into marine environments (e.g. the cost associated with the devastation of marine and coastal environments due to the unregulated release of toxins in quantities beyond the assimilative capacity of these ecosystems), the potentially restrictive provisions were justified in the public interest. The provisions were also considered to confer significant net benefits in terms of promoting public health, safety and amenity.

It is therefore reasonable to conclude that the introduction of the MARPOL Convention attests to the fact that self-regulation, devoid of severe penalties for intentional polluters, has not met environmental protection and public health objectives.

The review of alternate options confirms that the broad direction of the Northern Territory *Marine Pollution Act* is a valid approach to the issues and objectives addressed by the legislation.

Alternatives to government regulation are considered to be impractical, as recognition, acceptance and implementation of alternative regimes are not sufficient to achieve the desired community expectations with respect to safety and environmental outcomes for the shipping industry.

It is worth noting that the international community has rejected non-regulation and self-regulation for shipping and has put in place a regulatory system based on

international treaties. The Australian shipping industry is part of that international community, which is controlled by government regulation.

The review of the *Marine Pollution Act* clearly establishes that the legislation does not contain significant restrictions on competition but does impose minimal compliance costs on the shipping industry and regulatory costs on government.

On balance, taking into account problems associated with accurately assessing costs to business and benefits to the community, it is considered that the public benefit test (under clause 5(1) of the Competition Principles Agreement) clearly weighs in favour of the wider community benefit and the costs of government regulation and industry compliance are more than justified on environmental and public health grounds.

Accordingly, the legislation does meet its objectives and there are no valid grounds to adopt alternative measures.

It was therefore recommended that the Territory Government:

- (a) endorse the results of the review of the *Marine Pollution Act 1999*, which demonstrate that the *Act* does not contain significant anti-competitive provisions, but does impose minimal compliance costs on the shipping industry; and
- (b) note that these minimal compliance costs on the shipping industry are justifiable under Clause 5(1) of the Competition Principles Agreement.

The Northern Territory Government endorsed the results of the review in January 2002 and also noted that minimal compliance costs on the shipping industry are justifiable under clause 5(1) of the Competition Principles Agreement.

### ***Aerodromes Act***

The principal catalyst for the introduction of this piece of legislation was the emerging importance of Connellan Airport at Yulara as a major transport hub for tourists and others visiting Uluru and the far south-west region of the Northern Territory.

The purpose of the *Act* was to provide authority for declaration of any place to be an aerodrome, and for the appointment of a Director of Aerodromes with functions relating to:

- operation of aerodromes;
- review the use and capacity of aerodromes;
- conduct of commercial activities at aerodromes;
- arrange and provide for aerodrome security;
- arrange and provide for aerodrome facilities; and
- carry out activities to protect the environment.

In order to ensure, in relation to aerodromes:

- the safety of users;
- that noise does not cause detriment to communities; and
- as far as practicable, the protection of the environment.

In practice no elements of the *Act* have reduced competition. In the eight years since the promulgation of this piece of legislation there is no evidence of the powers available to the Director of Aerodromes under the *Act* having been exercised.

The review of the *Aerodromes Act* was commenced in July 2001 and completed in December 2001.

The review was carried out by an independent consultant and was commissioned largely as a consequence of the *prima facie* anti-competitive aspects of provisions in the *Act* providing for commercial activity at declared aerodromes, within the context of Clause 5(1) of the Council of Australian Governments' 1995 Competition Principles Agreement.

The process or methodology adopted by the consultant to undertake the review is as follows.

1. Interaction with the Steering Committee as required.
2. Summarisation of key elements of the *Act*.
3. Placement of an advertisement in the NT News [22/8/01] and Centralian Advocate [24/8/01].
4. Consultation with a sufficient number of relevant stakeholders to enable defensible views to be formed regarding the various issues listed in the Terms of Reference. In particular:
  - (a) clarification of the objectives and intent of the legislation;
  - (b) problems it is intended to address;
  - (c) relevance of the legislation to the economy;
  - (d) assessment of continued need for the legislation to achieve stated objectives;
  - (e) nature of restrictions to competition;
  - (f) likely effect of restrictions on competition and the economy generally;
  - (g) cost and benefits of the restrictions;
  - (h) non-legislative means of achieving the same result; and
  - (i) recommendations for change, or presentation of a strong net basis for retention.
5. Preparation of a draft report for Steering Committee consideration.
6. Preparation of a final report on receipt of Steering Committee comments.

It should be noted that, given early indications of reasonable likelihood that a recommendation for repeal of the *Act* would be made, it was considered unnecessary

to examine in detail issues such as 4(c) and (g) above, and similarly unnecessary to conduct a 'public benefits test' examination of the *Act*.

In practice, no elements of the *Act* have reduced competition, if for no other reason that the powers of the *Act* have apparently never been invoked.

However, the Review Report does examine a number of hypothetical situations where the *Act* conceivably could, if invoked in a certain manner, adversely affect competition.

The *Aerodromes Act* [*'Act'*] was legislated principally to provide the Northern Territory Government with powers in relation to Connellan Airport at Yulara.

Areas in addition to Connellan Airport, which have subsequently been declared aerodromes pursuant to the *Act* included Batchelor airstrip, Borroloola airstrip, and Timber Creek airstrip.

The leasing of Connellan Airport to the Ayers Rock Resort Company Ltd. in 1997, ceding responsibility for administration of the Airport to the lessee and providing for wide-ranging indemnification of the lessor by the lessee, effectively obviated the need for the *Act* in relation to that Airport.

No evidence of any actions ever having been taken under the auspices of the *Act* has been identified.

Consultation with users of the aerodromes at Batchelor, Borroloola and Timber Creek revealed no instances of anti-competitive behaviour by any party in relation to aerodrome use or administration.

No eventualities at any of the aerodromes in question are envisaged which would require remedial actions under the auspices of the *Act* and for which remedies by or through alternative authorities [CASA, NT Police etc] are unavailable.

Independent legal opinion obtained by the Department of Transport and Works is that 'there is no increased risk to the Northern Territory in respect of incidents occurring at currently regulated aerodromes if the *Act* were to be repealed'.

Northern Territory Government officers engaged in administration of the *Act* and/or associated with its drafting could not present a substantive case for its retention.

As a consequence, it was recommended that the Government endorse the results of the National Competition Policy Review of the *Aerodromes Act 1993*, which finds that the *Act* should be repealed on the basis of irrelevance.

The recommendations of the review of the *Aerodromes Act* were endorsed by Government in March 2002. It is intended that the *Aerodromes Act* will be repealed by July 2002.

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## Chapter 8 – Agriculture and Related Activities

### Legislation Review

#### **Veterinarians Act**

The issues raised by the National Competition Council in the *Assessment of Governments' progress in Implementing the National Competition Policy and Related Reforms - Primary Industries Working Paper* regarding remaining advertising prohibitions are currently under consideration and will be resolved by 30 June 2002.

#### **Agricultural and Veterinary Chemicals (NT) Act**

This is a national review through the Ministerial Council. The review recommendations have been referred to various technical and professional sub-committees for assessment.

One recommendation called for the establishment of a task force to harmonise rules regarding "off-label" use of registered chemicals. The report has not been finalised.

#### **Food Act**

Review and reform obligations are to be finalised with the enactment of the *Food Bill 2002* (based on nationally agreed Model food legislation) in late 2002. The first draft of the Bill is expected to be complete by early April and is likely to be made available for public comment. It is expected that a commitment to a 'firm transitional arrangement' will be sought from Government prior to 30 June 2002.

#### **Meat Industries Act 1997**

Please refer to Appendix 1 for a copy of the Final Report.

In April 2001, the Government approved the recommendations contained in the report.

## Chapter 9 - Forestry and Fisheries

### Legislation Review

#### ***Fisheries Act 1996 and Regulations***

The review of the *Fisheries Act 1996* and Regulations has been finalised and is scheduled to be considered by Government in April 2002.

## Chapter 10 – Mining

### Legislation Review

#### ***Mining Act***

The NCP review of the *Mining Act* is complete. The review is scheduled to be considered by the Government in April 2002.

#### ***Merlin Project Agreement Ratification Act***

A draft discussion paper regarding the review of the *Merlin Project Agreement Ratification Act* is currently being prepared.

It is noted that the National Competition Council considers that Competition Principle Agreement obligations have been met where "discovered" legislation such as the *Merlin Project Agreement Ratification Act* has been added to review programs, even though the review will not be completed by the June 2002 deadline.

#### ***Mine Management Act***

The *Mine Management Act* was repealed on 1 January 2002.

#### ***Petroleum Act***

The review of the *Petroleum Act* is currently underway. Completion of the review is estimated at May 2002.

#### ***Uranium Mining (Environmental Control) Act***

The *Uranium Mining (Environmental Control) Act* was repealed on 1 January 2002.

## Chapter 11 – Health and Pharmaceutical Services

### ***Health Practitioners and Allied Professionals Registration Act; Dental Act; Nursing Act; Medical Act; Optometrists Act; Pharmacy Act 1996***

The Government has approved the drafting of an omnibus Health Practitioners Registration Bill to replace the above Acts.

A discussion paper on the proposed legislation was released for public comment in September 2001 and public forums were held in the major centres in October and November 2001. Drafting of the Bill commenced in March 2002. The new legislation is expected to be introduced into the Legislative Assembly in August 2002.

### ***Health Practitioners and Allied Professionals Registration Act***

The NCC's comment that the NT has not adequately justified the retention of statutory registration requirements for occupational therapists will be addressed by the 30 June 2002 deadline.

### ***Radiographers Act***

The previous Government directed that the Act be repealed and the powers and functions of the Board necessary for the continued regulation of Radiographers be transferred to the *Radiation (Safety Control) Act*. Continuation of this reform was approved by the current Minister. Prior to June 2002, the current Government's approval will be sought for the drafting of legislation to replace the *Radiation (Safety Control) Act* (see below). In order to avoid "double handling" of reform, approval will be sought to delay repeal of the *Radiographers Act* until new radiation safety legislation is developed. Commitment to a 'firm transitional arrangement' will also be sought.

### ***Poisons and Dangerous Drugs Act; Therapeutic Goods and Cosmetics Act***

In 1999, the Commonwealth, State and Territory governments, through COAG, commissioned a National review of Drugs, Poisons and Controlled Substances Legislation. In December 2000, the review report was completed and presented to the Australian Health Ministers Conference (AHMC) which is required by the review terms of reference to forward the report to COAG with its comments. In preparing its comments, AHMC is required to take account of the comments of the Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ). AHMC in turn referred the report to the Australian Health Ministers Advisory Committee (AHMAC). AHMAC appointed a Working Party to assist it in drafting comments on the report for AHMC. In May 2001, the Chair of the Working Party wrote to all jurisdictions seeking comments on the report's recommendations. Comments were duly provided. The Working Party's recommended response was forwarded to the National Coordinating Committee of Therapeutic Goods, which agreed that the response should be forwarded to AHMAC. The Commonwealth Therapeutic Goods Administration, in its role as secretariat to the review Chair, is currently preparing an

out-of-session AHMAC paper on the recommended response (including a proposed “firm transitional arrangement”).

### **Radiation (Safety Control) Act**

A National NCP Review of Radiation Protection Legislation, sponsored by COAG, was completed in May 2001. The review report was noted by the Australian Health Ministers Advisory Committee (AHMAC) in August 2001. AHMC also approved a proposal for the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) to coordinate a formal response of all jurisdictions to the recommendations of the review final report and produce a national position for submission to AHMC through AHMAC. In August 2001 ARPANSA sought jurisdictions’ responses to the recommendations in the review final report, which were duly provided. ARPANSA, through the National Uniformity Implementation Panel (NUIP – a working group of the Radiation Health Committee) is currently negotiating a national position (including an implementation plan) for submission to AHMAC /AHMC prior to 30 June 2002.

## Chapter 12 – Legal Services

### ***Legal Practitioners Act***

An issues paper was released in 2000 dealing with the *Legal Practitioners Act* and the *Legal Practitioners (Incorporation) Act*.

The two priority areas are indemnity insurance and regulation of legal structures.

A review dealing with the indemnity insurance provisions should be complete by the end of February 2002. It is intended that the Government will consider the recommendations of this review by the end of April 2002. It is anticipated that legislation will be introduced in the June 2002 sittings of the Northern Territory Legislative Assembly.

The review of the balance of the provisions of the *Legal Practitioners Act* is expected to be finalised by the end of March 2002.

### ***Legal Practitioners (Incorporation) Act***

The Government has considered the review of the *Legal Practitioners (Incorporation) Act*.

The NCP Review Report and the Government's response has been forwarded to the NCC.

## **Chapter 13 – Other Professional and Occupational Licensing**

### ***Auctioneers Act***

The review of the *Auctioneers Act* is to be finalised by the end of March 2002. Any appropriate amending legislation should be ready for the May 2002 Sittings of the Northern Territory Legislative Assembly.

### ***Agent's Licensing Act***

The previous Government approved the NCP review report. The report was provided to the NCC with the 2001 Annual Report.

The report, together with proposed legislation is to be referred to the current Government. It is proposed to release the Government's response to the report during May 2002.

### ***Consumer Affairs and Fair Trading Act – Motor Vehicle Dealers Regulations***

The previous Government approved the NCP review report. The report was provided to the NCC with the 2001 Annual Report.

The report, together with proposed legislation is to be referred to the current Government. It is proposed to release the Government's response to the report during May 2002.

## **Chapter 14 – Fair Trading Legislation and Consumer Legislation**

### ***Consumer Affairs and Fair Trading Act***

The previous Government approved the NCP review report. The report was provided to the NCC with the 2001 Annual Report.

The report, together with proposed legislation is to be referred to the current Government. It is proposed to release the Government's response to the report during May 2002.

### ***Prices Regulation Act***

The previous Government approved the NCP review report. The report was provided to the NCC with the 2001 Annual Report.

The report, together with proposed legislation is to be referred to the current Government. It is proposed to release the Government's response to the report during May 2002.

## Chapter 15 – Finance, Insurance and Superannuation Services

### General Insurance

#### *Territory Insurance Office Act*

The *Territory Insurance Office Act* establishes the Territory Insurance Office (TIO) and regulates its operations. The TIO and Northern Territory Treasury undertook a joint review of the *Territory Insurance Office Act* in mid 1999.

The review identified a number of provisions of the Act that were considered to represent potential restrictions on competition:

- Section 5(a), which established TIO as the insurer of assets and prospective liabilities of the Territory and statutory corporations;
- Section 5(c), which designated TIO as the sole administrator of the Territory's compulsory motor accident compensation scheme; and
- Section 30, which provides a government guarantee on TIO's deposits and contracts of insurance.

As reported for the 2001 assessment, the Government accepted the review recommendations to remove the potential restrictions imposed under Sections 5(a) and 5(c) and the necessary amendments were passed during the Legislative Assembly sittings in November 2000.

The issue of the government guarantee will be addressed as part of the Government's consideration of the application of the Government Owned Corporations framework to TIO (see the Competitive Neutrality Chapter for more information on corporate governance reforms). Section 34 of the *Government Owned Corporations Act* determines that the obligations of Government Owned Corporations are not guaranteed by the Territory unless specified by the Treasurer. In addition, section 35 expressly provides for the levying of a competitive neutrality fee where a Government Owned Corporation has a cost of borrowing considered to be lower than a comparable private corporation.

### Compulsory Motor Accident Compensation

#### *Motor Accidents (Compensation) Act*

The Northern Territory Government operates a no fault, compulsory motor accident compensation scheme. The scheme is established under the *Motor Accidents (Compensation) Act* (MACA). The Territory Insurance Office is the administrator of the scheme, with contribution rates and benefit levels set by government.

In August 2000, the Northern Territory Treasury commissioned Taylor Fry Consulting Actuaries and Professor Stephen King to review the *Motor Accidents (Compensation) Act* together with part V and section 137B of the *Motor Vehicles Act*.

The review was overseen by a steering committee comprised of Northern Territory Treasury, Department of Justice and Department Infrastructure, Planning and Environment officials. As input to the review, public comments were invited via advertisements in Territory newspapers. The review was conducted in accordance with standard terms of reference for National Competition Policy legislation reviews.

The Government is expected to consider the review report in the near future.

### **Work Health Act**

Information pertaining to the Government's response to the review of workers compensation legislation will be provided by 30 June 2002.

## Chapter 16 – Retail Trading Arrangements

### *Liquor Act*

The Racing, Gaming and Licensing Division, recently transferred to Northern Territory Treasury, is conducting a public review of the *Liquor Act*. The Act prescribes licensing and operating requirements for the sale of alcohol in the Territory.

An independent steering committee, comprised of central agency representatives is overseeing the review.

A draft final review report has been prepared. The draft report is currently being considered by the review steering committee prior to being finalised. It is anticipated that the review report will be considered by Government prior to 30 June 2002.

## Chapter 17 – Social Regulation with Implications for Competition

### ***Gaming Control Act and Regulations; Gaming Machine Act and Regulations***

A review of legislation regulating gaming operations and the use of gaming machines in the Territory is currently being conducted. Legislation under review includes the *Gaming Control Act* and the *Gaming Machine Act*.

Terms of reference for the public review are consistent with Competition Principles Agreement criteria. The review is being conducted by a consultant overseen by a steering committee comprised of Northern Territory Treasury, Department of Justice and Department of Business, Industry and Resource Development representatives.

A discussion paper is currently being prepared and is scheduled for release for public consultation in early April 2002. The final review report is due to be considered by government in June 2002.

### ***Racing and Betting Act and Regulations***

A review of legislation governing racing operations and the regulation of bookmakers in the Territory is currently underway. The scope of the review includes the *Racing and Betting Act* and Regulations and the *Unlawful Betting Act*.

Terms of reference for the public review are consistent with Competition Principles Agreement criteria. The review is being conducted by a consultant overseen by a steering committee comprised of Northern Territory Treasury, Department of Justice and Department of Business, Industry and Resource Development representatives.

A discussion paper was released for public consultation on 8 March 2001, with submissions due by early April. It is anticipated that the final review report will be submitted for government consideration in late May 2002.

### ***Totalisator Licensing and Regulation Act; Sale of NT TAB Act***

A review of Northern Territory pari-mutuel wagering legislation commenced in the latter half of 2000 and was finalised in February 2001. The review encompassed the *Sale of the NT TAB Act* and the *Totalisator Licensing and Regulation Act*.

The Centre for International Economics (CIE) conducted the review, which was overseen by an independent steering committee comprised of representatives from Northern Territory Treasury, Department of the Chief Minister and Department of Business, Industry and Resource Development.

Government approved the review, and consequent recommendations, in February 2002. A copy of the review report and a detailed overview of the Territory

Government's response will be provided to the Council once preliminary measures, necessary to implement the findings of the review, have been undertaken.

### ***Community Welfare Act***

An independent review was completed April 2000. The previous Government delayed any decisions on alternative methods for achieving the objectives of the Act, which relate to voluntary care, pending further development of broader proposals concerning voluntary care and support services for young children. Direction in this regard (including a commitment to a 'firm transitional arrangement') is to be sought from the current Government prior to 30 June 2002.

## Chapter 18 – Planning, Construction and Development Services

### *Planning Act*

The NCP review of the Planning Act (NT) has been finalised, however, the NCC has suggested that the issue of whether private agents could undertake the planning approval process be addressed.

In the Northern Territory, the Development Consent Authority (DCA) approves development applications. The Minister undertakes this function in remote areas where no planning scheme is in place. The DCA is a decision making body similar to a tribunal, which operates independently of the Department of Infrastructure, Planning and Environment. The Department makes recommendations to the DCA at public hearings that may or may not be followed.

In other jurisdictions permission is required for various minor works. For example permission is required to cut down any vegetation on your property or to paint your own house. The Territory has the 50% rule where permission is not required to clear 50% of private freehold land and permission is not required to paint your own house. With respect to the Australian Capital Territory (ACT), there are suburbs in the ACT that do not allow on-street parking; and buildings, fencing and other property are restricted in what colour they are allowed to be. These minor works are more readily subject to certification by private agents, however, this is not an issue for the Territory as the *Planning Act* and subordinate legislation does not require formal approval for minor works.

Investigation of whether some of the broader planning approval functions of the DCA could be undertaken by private agents reveals numerous difficulties. These stem from the size of the Territory market which is very small and isolated and hence does not have the capacity to support a sufficient number of agents fit to undertake the approval role in a way that will produce the desired effects of competition.

The DCA hears development applications once a month in Darwin, Katherine, Litchfield, Palmerston and Alice Springs in a public hearing. It is not a full time role for the members of the DCA and therefore it is unlikely that the current volume of development applications in the Territory would sustain a competitive market for private agents undertaking the approval role in competition with the DCA. There would also be administrative and regulatory costs involved in terms of developing a certification scheme for private agents, as well as conducting external auditing of privately approved development proposals.

Members of the DCA must declare a conflict of interest and withdraw from hearing a development application where such a conflict arises. This is clearly within the objectives of the *Planning Act* and prevents the inevitable public detriment that results when people with vested interests make important decisions on development. The conflict of interest provisions would also need to also be imposed on private

agents undertaking the development approval process to maintain the objectives of the legislation. This would exacerbate small market concerns.

Accordingly, the Territory's small and isolated market and the potential administrative costs would appear to undermine any public benefits associated with introducing contestable development approval processes. As such, it is considered that the current regulatory approach, where minor development proposals require no formal approval and where all other development approval functions are undertaken by the DCA, maximises the public benefit in achieving the objectives of the legislation.

### ***Building Act***

The NCP review for this *Act* has been finalised, however the legislative amendments resulting from the review were put on hold to be implemented as part of broader amendments to the *Building Act*. The broader amendments are yet to be completed, therefore the NCP review legislative amendments are being progressed on their own to ensure compliance with NCP. Amendments are straightforward and should proceed before 30 June 2002. Review information will be forwarded once considered by the Government.

### ***Architects Act***

The review is to be completed and considered by Government by 31 March 2002. It is intended that any amendments will be passed during the May 2002 sittings of the Northern Territory Legislative Assembly.

The NCP review report will be made available once it has been considered by Government.

### ***Licensed Surveyors Act***

The NCC has raised the issue of minimum standards for education and training requirements, as set by the Licensed Surveyors Board, which were not assessed as part of the review. The *Licensed Surveyors Act* imposes three broad requirements that applicants must meet in order to be licensed in the Territory: a fit and proper person test; education standards; and a two-year experience requirement. The Board has no discretion in granting a licence once these requirements have been met.

The review states that while education and training provisions are anti-competitive, they do not have to be assessed, as the legislation does not state the exact nature of the education and training requirements. However, entry requirements determined by the Board are effectively subordinate legislation and attract NCP review.

The Board has a role as the body responsible for setting these requirements, but this is necessary for the purposes of the *Act*, in particular in relation to enabling overseas people to participate in the Territory licensed surveyors market. On these occasions the Board is assisted by reference to recommendations made by the National Office of Overseas Skilled Recognition (NOOSR) and the Bureau for Assessment of Overseas Qualifications.

The fit and proper person requirement allows the Licensed Surveyors Board some recourse in the event of prior evidence of fraud or gross negligence of a licensed surveyor. The discretion the Board possesses is kept in check by anti-discrimination legislation and mutual recognition legislation which can override the *Licensed Surveyors Act*. It should also be noted that, under the provisions of the legislation, the Board is required to provide details of any decision to refuse an application to the applicant. There is also an appeals mechanism provided for under the Act. This should ameliorate any concerns regarding the arbitrary application of the fit and proper person test.

It is considered that prior evidence of sound character, as an entry requirement for licensed surveyors, promotes confidence in the integrity of the Northern Territory Cadastre and in consumers of surveying services and hence the fit and proper person requirements are necessary to achieve the objectives of the legislation.

In relation to education and training standards, these requirements are consistent with those applied by the Reciprocating Surveyors Boards of Australia or New Zealand (RSBANZ) for the purpose of national reciprocity and consistency (refer Section 2.1 of the 'Training' document attached at Appendix 2).

Currently, the education requirement is a four-year Surveying Degree, and the training requirement is that the applicant has worked under a Licensed Surveyor for two years. A copy of the current model training agreement is attached at Appendix 3. These requirements have been established as being necessary for the purpose of licensing surveyors in other Australian jurisdictions and in New Zealand. In addition, the development of a competency based framework to replace the two year experience requirement would require a national approach in order to maintain consistency in entry standards across jurisdictions.

It is considered that the current education and training requirements are the minimum for licensed surveyors to develop the particular skills and knowledge necessary to undertake land boundary surveying.

The current entry standards for licensed surveyors in the Northern Territory are consistent with national entry standards and serve to reduce the extent of information asymmetry present in the provision of professional surveying services. It is deemed unlikely that confidence in the integrity of the Territory's Cadastre could be maintained through a reduction in entry standards for licensed surveyors.

### ***Electrical Workers and Contractors Act***

The review by the Centre for International Economics of the *Electrical Workers and Contractors Act* was completed in October 2000. Recommendations included:

- licensing should be maintained, but also that other means of signalling competence should be afforded comparable status;
- the Board should consider removing additional experience requirements for contractors;
- the fit and proper person test should be amended to signal the criteria against which licence applicants are assessed;

- exemptions from licensing requirements for the Power and Water Authority should be removed; and
- a more general review of the Act.

The previous Government approved the review recommendations in November 2000 and directed that the necessary amendments be made following a review of the administrative structures supporting the Act.

### ***Plumbers and Drainers Licensing Act***

The review by the Centre for International Economics of *the Plumbers and Drainers Licensing Act* was completed in September 2000, recommending that:

- the Act should give explicit recognition of national competencies-based approach;
- the Board's range of options in dealing with complaints should be made widely known;
- the fit and proper person test should be amended to signal the criteria against which licence applicants will be assessed;
- the Act should be reviewed to establish whether the continued Power and Water Authority membership is desirable; and
- a more general review of the Act.

The previous Government approved the review recommendations and directed that a general review of the Act be undertaken.

## **Appendix 1**

### **Meat Industries Act (see Chapter 8 – Agriculture and Related Activities)**

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*Meat Industries Act*  
and Regulations

National Competition Policy  
Review Report

By

Independent Review Panel  
Chair K.J.Cohalan  
FAIM, FDI, Cert Dairy Tech (GCIDT)

November 2000

## CONFIDENTIAL

### Terms of Reference

#### Generic Terms of Reference - *Meat Industries Act* and Regulations

The review of the *Meat Industries Act* and Regulations was conducted in accordance with the principles for legislation review set out in the Competition Principles Agreement utilising The Northern Territory National Competition Policy Steering Committee's guidance template. The underlying principle is that legislation should not restrict competition unless it can be demonstrated that:  
The benefits of the restriction to the community as a whole outweigh the costs; and  
The objective of the legislation can only be achieved by restricting competition.

#### The review

- Clarified the objectives of the legislation their continuing relevance and whether or not the *Meat Industries Act* and Regulations remains an appropriate vehicle to achieve those objectives;
- Identify the nature of the restrictive effects on competition;
- Analyses the likely effect of any identified restriction on competition and the economy generally;
- Assess and balance the costs and benefits of the restrictions identified; and
- Consider alternative means for achieving the same results, including non-legislative approaches.

When considering the matters referred to in clause 2, the review also identified any issue of market failure, which will need to be, or are being addressed by the legislation.

Consider whether the effects of the legislation contravene the competitive conduct rules in Part IV of the Trade Practices Act 1974 and the Northern Territory Competition Code.

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

The review shall consult with, and take submissions from

- Domestic and export abattoir licence holders;
- Domestic or export poultry abattoir licence holders;
- Domestic or export meat processing licence holders;
- Domestic or export game meat processing licence holders;
- Pet meat processing licence and pet meat processing (transportable) licence holders;
- Cold store licence holders; and
- Other interested parties.

The review to be completed by 1<sup>st</sup> December 2000

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### Recommendations

A significant number of provisions within the *Meat Industries Act* and Regulations were identified as restrictive. The review panel recommends no changes as the benefits to the community outweigh the costs and no feasible alternatives to regulation were identified.

Provision	Short Description	Recommendation
Section 4 (5)	Fit and proper person	No change
Section 6	Permit to slaughter	No change
Section 17	Objection to proposed applications	No change
Section 19	Licences	No change
Section 20	Conditions of Licences	No change
Section 26	Transfer of Licences	No change
Section 29-32	Nomination of manage	No change
Section 33-34	Offences	No change
Section 34(4)c	Advertising at residence	No change
Section 36-38	Pet Meat Offences	No change
Section 39	Transport of Pet Meat	No change
Section 42	Persons with disease	No change
Section 44	Person not to alter establishment	No change
Section 46	Falsely identifying meat	No change
Section 53	Transport of meat	No change
Regulation 4 & 15	Pet meat imported into establishment	No change
Regulation 17	Processing only permitted	No change
Regulation 33	Shooting of animals	No change

The Northern Territory *Meat Industries Act* and Regulations should remain as no other vehicle could be identified to achieve objectives.

The Northern Territory *Meat Industries Act* and Regulations operates under the framework of the "The Agriculture and Resources Management Council of Australia" (ARMCANZ) adopting Australian Standards AS/NZS ISO 9000 (1994) series

- Construction of premises Processing Meat for Human Consumption
- Construction of premises Processing Animals for Human Consumption
- Hygienic Production of Game Meat for Human Consumption
- Hygienic Production of Poultry Meat for Human Consumption
- Hygienic Production of Rabbit Meat for Human Consumption
- Transport of Meat for Human Consumption

It is recommended that *Meat Industries Act* and Regulations continues to work under the framework of ARMCANZ

The long title of the Act should be rewritten to reflect the desired outcome not how to achieve the desired outcome.

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The Minister should consider a review of the Northern Territory *Meat Industries Act* and Regulations in 3 to 5 years.

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## Introduction

### National Competition Policy.

The Northern Territory National Competition Policy Steering Committee guidelines were used as the basis of the review and report.

Terms of Reference as per page 2. Summary of the key factors

- clarify the objectives of the legislation;
- identify the nature of the restrictions on competition;
- analyse the likely effect on the economy of each restriction on competition;
- assess the balance of costs and benefits of each restriction; and
- consider alternative means for achieving the same result including non-legislative approaches.

### Review Panel

An independent review team was appointed to carry out this review. The team has no vested interest in the legislation comprised of:

Mr Ken Cohalan, ex-General Manager Pauls Limited NT, Vice President NTCC&I – (nominated by the NT Chamber of Commerce and Industry) – and

Mrs Brydget Barker-Hudson, Coordinator Legislation with the Department of Primary Industry and Fisheries, acted as Executive Officer for the review team.

Brian Radunz Chief Veterinary Officer Department of Primary Industries and Fisheries acted as liaison and supplied relevant information for this review.

### Public Consultation

Submissions were invited from the public by advertisement in newspapers circulating throughout the Northern Territory.

No response was received from the invitation to comment on the Review.

Chair discussed the *Meat Industries Act* and Regulations with;

- Consolidated Meat Group
- Batchelor Meat Works
- Brunei Meat Export Company Ltd

No adverse comments were received from senior officers of the above companies.

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### Object of the Legislation

#### Clarify the objectives of the Legislation

The long title of the Act states:

*"To provide for the control of the slaughter of animals and processing of meat for human consumption and for use as pet meat, to otherwise regulate the meat industries and for related purposes"*

The long title of the Act should possibly be rewritten to reflect the desired outcome.

*The objects of this Act are –*

*(a) to ensure that meat produced for human consumption is wholesome;*

*(b) to ensure that pet meat produced for pet food is not substituted for meat produced for human consumption;*

*(c) to ensure the humane slaughter of animals for human consumption and pet meat; and*

*(d) to foster export and domestic markets for meat for human consumption and pet meat.*

The cattle-based meat industries of the NT are presently worth approximately \$20 million and form part of the dynamics of the pastoral industries of the NT, which is worth in excess of \$160 million per annum.

The Act is focused on the public interest of food safety using a licensing regime and implementation of published National Standards. The NT contributes to the creation of such Standards and adds them to the statutory regime as they are produced progressively for industry sectors and functions.

#### Anti-competitive Provisions

The nature of the Act restricts provision of services by a licensing regime intended to uphold the integrity of the different market sectors, preventing meat substitution and therefore protecting public health and the access of industries to valuable markets. This by its nature is anti-competitive. However, throughout consideration of this Act the panel was of the opinion that the public interest was served by the restrictions.

Considerations of possibly anti-competitive provisions are detailed in the Attachment A. The nature of each restriction is categorised using the classification specified.

Under the guidelines seven types of restriction listed, detailed comments on the restrictions are covered in Attachment A

## CONFIDENTIAL

### Govern the entry or exist

The cost of licences and compliance (noted in Public Benefits Test) are more than offset by protecting public health and markets. (estimated cost noted in Public Benefits Test)

The Act makes provision for 'religious' slaughter of animals. This is seen as reflective of our multi-ethnic / religious society.

The industry has had incidents of mismanagement in the past and 'fit and proper' persons provisions are required to ensure suitable management of this important industry sector to the rural economy of the NT and nation as a whole. Industry previously subject to censure under Royal Commission findings.

### Price or Production Control

Comparative costs with or without the Northern Territory *Meat Industries Act* and Regulations are considered, noted under Public Benefits Test.

### Quality or location restrictions.

Quality restrictions are in place to protect public health and markets. Detailed elsewhere in the report.

Location, there appears to be a duplication whereas the *Planning Act* and the *Meat Industries Act* both have jurisdiction in **land use control areas**. In practice both have expertise and responsibilities in different areas and work in conjunction would achieve desirable outcomes.

Differences;

<i>Meat Industries Act</i>	<i>Planning Act</i>
Cattle yarding and movement	Traffic movement and parking.
Animal and animal waste handling	Environmental factors
Disease and contaminant control	Community concerns
Hygienic meat processing and transport	Traffic control
Building design to reduce contamination	Building code
Implementation ARMCANZ Standards	Relevant Planning Act codes.
Permits 3 <sup>rd</sup> parties appeals	Does not allow 3 <sup>rd</sup> party appeals
Appeals – Local court	Appeals Land and Mining Tribunal
Appeals on merit	Appeal on evidence presented.

### Advertising and Promotional Opportunities

Intention of Section 34 (4) was not to restrict advertising and has not been used for that purpose. It was to encourage small operators to promote services and for easy location by officer acting under the *Act*.

### Restricts price or type of inputs in the production process

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Unrefrigerated transport of fresh meat has been implicated in food poisoning of the public causing hospitalisation. The costs incurred are required to meet public health standards and expectations. The necessity of refrigerating fresh meat in tropical areas such as the Northern Territory is far greater than in temperate climates.

The costs are noted under Public Benefits Test.

### Likely to confer significant operating cost to the business

The costs incurred are required to meet public health standards and expectations. In most instances if individual operators had to meet these standards on their volition the costs would be greater than collectively under the Act.

### Provides advantage to some firms over others

No restrictions noted.

Summary (detailed comments are at Attachment A)

<b>Provision</b>	<b>Health/Economic</b>	<b>Severity</b>	<b>Other Problems</b>
Section 4 (5) Fit and proper person	Restrict entry	Minor	Criminal Implications
Section 6 Permit to slaughter	Selective restriction	Minor	Religious
Section 17 Objection to proposed applications	Cost entry	Minor	None
Section 19 Licences	Restrict entry	Minor	None
Section 20 Conditions of Licences	Restrict entry	Minor	None
Section 26 Transfer of Licences	Restrict entry	Minor	None
Section 29-32 Nomination of manage	Restrict entry	Minor	None
Section 33-34 Offences	Restrict entry	Minor	None
Section 34(4)c Advertising at residence	Selective restriction	Minor	None
Section 36-38 Pet Meat Offences	Restrict entry & Health	Minor	Meat contamination
Section 39 Transport of Pet Meat	Cost & Health	Minor	None
Section 42 Persons with disease	Public Health	Minor	None
Section 44 Person not to alter establishment	Price & Health	Minor	None
Section 46 Falsely identifying meat	Price & Health	Minor	Meat contamination
Section 53 Transport of meat	Price & Health	Minor	None
Regulation 4 & 15 Pet meat imported into establishment	Price & Health	Minor	Meat contamination
Regulation 17 Processing only permitted	Price & Health	Minimal	None
Regulation 33 Shooting of animals	Restrict entry	Minor	None

### **Public Benefit Test**

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The likely impact of each restriction is set out in Attachment A

Graham Kirby, Chief Economist Office Resource Development, Northern Territory Government, has prepared a report covering Public Benefit Test (see Attachment B).

The following factors are relevant in making an assessment of the relative benefits and costs of restrictions.

- Cost of implementing and control under the *Meat Industries Act* and Regulations
- Community service obligations
- Public Health and Safety.
- Economic benefit to Australian business

### Cost of implementing and control under the *Meat Industries Act* and Regulations

The estimate cost of the Department of Primary Industries & Fisheries implementing and control under the *Meat Industries Act* and Regulations is less than \$300,000 per annum

### Community service obligations

The community expects and demands that food they consume is safe and nutritional. There is ample evidence that the community is prepared to pay an additional cost to ensure compliance to high standards.

They also expect and demand that animals are treated in humane manner.

### Public Health and Safety.

Graham Kirby Chief Economist report has covered this subject Attachment B

The cost of refrigerated hygienic transport of meat transport is offset by decrease in product quality, possible loss of meat, loss of sales and increase risk to public health.

### Economic benefit to Australian business

Cost of Licences rang between \$50 and \$150. All abattoirs and meat processors are subject to regular audit (frequency is dependant on throughput) Audits have been free of charge to date, however in line with national trends charges for audits will begin in 2001.

To obtain third party accreditation required by an increasing number of companies such as Woolworths, Coles, and McDonalds if the controls of *Meat Industries Act* and Regulations was not in place. As there are no meat specific private accredited auditors based in the Northern Territory the costs are very high. Example, to achieve third party accreditation on McDonald dairy products cost approximately \$11,000 in 1997.

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As at 9 December 1999, there were 11 abattoir licences, 2 processing licences, 16 game slaughter licences, 12 pet meat slaughter licences and 3 pet meat processing licences issued. It should be noted that the majority of abattoir licences are in bush community with low level of technical expertise. Thus the cost of third party accreditation to the industry would be in excess of \$150,000 per annum.

### Alternatives

The *Meat Industries Act*, commenced in 1997, is compliant with and enforces National Standards in relation to meat production for human and pet consumption. These standards protect the health of consumers and breakdown of such standards has in recent years demonstrated the disastrous effects on individuals and industry with national and international implications.

To revoke the Northern Territory *Meat Industries Act* and Regulations and rely on voluntary code would not achieve the objectives. Lack of technical expertise, no other Northern Territorian business or body has the knowledge or expertise and the low level of marketing forces in remote communities would leave a dangerous vacuum resulting in potential adverse health and economic situation to arise.

There are no marketing management regimes in the Northern Territory such as Meat Marketing Boards. Marketing forces would not be sufficient to meet the objectives across the Northern Territory.

Individual provisions that are noted as anti-competitive and listed under anti-competitive provisions (page 6) have been examined in detail. Deletion, amendment or modification would not eliminate the overall restrictive provisions of the Northern Territory *Meat Industries Act* and Regulations and they would reduce the effectiveness of the Act.

The cost of alternatives to the stakeholders would be variable depending on the expertise and attention to detail. On the best advice available the cost of alternatives would be higher to the overall industry. The training, engagement of expertise, purchasing of required technology for the small operator would in many cases be beyond their capacity, or reduction in margin. The few large operators has some of the required this facilities to achieve a marketing advantage.

### Other Jurisdiction Reviews

Review of the situation in other jurisdictions

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Jurisdiction	Review	Status
Commonwealth	Export Control Act 1982	Does not appear to be completed
New South Wales	Meat Industry Act 1997	Review complete, expanded
Victoria	Meat Industry Act 1993	Tenders let 23 Mar 2000
Queens land	Meat Industry Act 1993	Not schedule for review
Western Australia	Meat Industry Authority Act	Minor changes, (levy)
South Australia	Meat Hygiene Act 1987	Review completed (see comments below)
Tasmania	Meat Hygiene Act	Review complete
Australian Capital Territory	Meat Industry Act 1931	To include provisions in Model Food Act – currently as a Bill

The Northern Territory *Meat Industries Act* 1997 differs from some other relevant Acts in other jurisdictions in that they are directed more towards butcher shops and retail. The Northern Territory Meat Industries Act concentrates on the animal slaughter, meat-processing side of the industry. The responsibility for public health responsibility at the retail level is with NT Food Act and progressively Australian New Zealand Food Safety.

The equivalent South Australian legislation is the *Meat Hygiene Act*. It requires meat processors to register their premises and apply quality assurance programs based on National Standards. Similar legislation exists in several other states.

The review of the South Australian legislation has been completed and is yet to be provided to the relevant Minister. It is understood that the review is likely to recommend;

- Extension of the Act to include rabbit meat, and
- Extension of the legislation to cover retail sales except businesses retailing only packaged meat.

### Conclusion

The risk to public health is very high with a perishable product such as meat. There is ample evidence throughout Australia that Food Poisoning is on the increase and most serious cases death, some outbreaks can be directed to uncontrolled meat slaughtering and processing. The reduction of one death, normally the young or elderly is more than justify the cost of operating the Northern Territory *Meat Industries Act* and Regulations.

Economic importance to the Northern Territory and Australian meat and pastoral industry is very important through employment, export trade and provision of a nutritional food to community.

There are moves to implement uniform animal slaughter and meat processing standards through The Agriculture and Resources Management Council of Australia (ARMCANZ) Further development and, if applicable ARMCANZ standards will work

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in conjunction with the Northern Territory *Meat Industries Act* and Regulations. Monitoring of these developments and a further review by the Minister of the Act should be undertaken at a desirable time. It should be noted that organisation and trained technical staff would be still be required to apply ARMCANZ standards.

Marketing forces will ensure major abattoirs and meat processors are strongly influenced to meet or exceed industry standards. The smaller abattoirs, the majority in the Northern Territory controlled under the *Meat Industries Act* and Regulations are little influenced by marketing forces.

No request or comment from interested parties was received to revoke the Northern Territory *Meat Industries Act* and Regulations or to modify provisions within the *Meat Industries Act* and Regulations.

No comments or evidence of excessive beuracratc interpretation by officers working under the Northern Territory *Meat Industries Act* and Regulations.

Methods other than licensing and establishment of auditable quality standards are unlikely to effectively control production of meat. The magnitude of the damage that could occur through an epidemic of food poisoning or through a major disruption to foreign trade or to local consumer confidence is considerable. An auditable paper trail, backed up by a simple licensing system, is considered essential to prevent any likelihood of meat substitution.

It is concluded that no changes to the Northern Territory *Meat Industries Act* and Regulations can be recommended.

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**ATTACHMENT A**

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### **Section 4(5): Fit and proper person**

This section defines "fit and proper person" for the purposes of the Act.

*Nature of restriction:* Governs the entry of individuals into a market - in that it prevents persons deemed to be unfit or improper from becoming meat industry licence-holders.

*Description:* The criteria for achievement of fit and proper person status are clearly defined. Considerable flexibility is given to government enforcers: however there is no evidence of this flexibility being abused.

*Likely effect on the economy.* This regulation makes it more difficult for a person with a dubious criminal history to obtain a licence. The intention is to prevent recurrences of the meat substitution scandal of the early 1980s by attempting to ensure the integrity of licensees. The potential impact of removing this restriction would be a trend for more criminals to involve themselves in the trade in order to take advantage of the opportunity to make significant profits by meat substitution or other schemes. There is a real risk that markets for our export beef would be threatened if our customers detected such misleading statements.

*Costs vs. benefits:* No significant impact.

*Comment:* This section has anti-competitive tendencies but is considered to be required in the public interest.

### **Section 6: Permit to slaughter**

This section provides that a permit may be offered to slaughter an animal for religious purposes.

*Nature of restriction:* Governs the entry of individuals into a market - in that it allows some people, for religious reasons, to slaughter animals for meat while excluding others. In that this section permits something that would otherwise be illegal, it may be considered not to restrict competition.

*Description:* The Chief Inspector may permit slaughter for religious purposes and impose conditions on such slaughter. Typically this might be used to permit slaughter on a farm to produce meat suitable for a religious festival, where such meat cannot be otherwise obtained. The permit conditions would deal with hygiene matters, and might require that an inspector supervise the slaughter.

*Likely effect on the economy.* This provision is unlikely to have any significant impact on the economy. It was included in the legislation following lobbying on behalf of religious groups, but has not been used since the legislation has been in force.

*Costs vs. benefits:* No significant impact.

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*Comment:* Arguably, this section has anti-competitive tendencies. The reviewers consider that it is required in the public interest in order to recognise religious diversity in our society.

### **Section 17: Objections to proposed applications**

This section provides that a person may object to proposals to build or amend a meat industry establishment.

*Nature of restriction:* Controls over price or production - in that it affects the location of where a business may operate.

*Description:* *Objections* must be on grounds that the site for a proposal is unsuitable. The Chief Inspector may take any such objection into account when considering approving a development proposal.

*Likely effect on the economy.* This provision is unlikely to have any significant impact on the economy. It

*Costs vs. benefits:* No significant impact.

*Comment:* This section has anti-competitive tendencies. The reviewers consider that it is required in the public interest in order to avoid the development of meat industry operations in unsuitable locations.

### **Section 19: Licences**

This section provides that the Chief Inspector may grant various types of licence.

*Nature of restriction:* Governs the entry of individuals into a market - in that it institutes a licensing regime.

*Description:* The Chief Inspector may grant various licences provided the proposed premises meets with approved standards or otherwise meets hygiene requirements. There is no limit to the number of licences, which may be issued, and the impact on established meat industry operations is not taken into account in considering applications. This is in contrast to the 1985 *Meat Industries Act*, which specifically provided for objections to be made on this ground and therefore *de facto* limited the number of licences that could be issued. [Incidentally, that Act never came into force.]

*Likely effect on the economy.* Development of the meat industry might be facilitated in a minor way if these restrictions were removed. However this would be at the expense of the credibility of the industry in the eyes of the consumer and of national and international markets. Maintaining a licensing regime contributes to the economy by maintaining market access for the Territory's valuable meat industries. The reviewers consider that the net impact of maintaining these restrictions is positive.

*Costs vs. benefits:* It is considered unlikely that consumers would be able to access cheaper meat if these restrictions were removed. The potential cost of food-borne disease outbreaks as a result of removal of licensing requirements is considerable.

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The reviewers consider that the costs, including social costs, of removing these restrictions outweigh the possible benefits in terms of cheaper product.

*Comment:* Licensing regimes by their nature can be seen as anti-competitive but this is seen to be in the public interest in this 'high risk' industry where there are Australia-wide Standards and international certifications to be upheld.

### **Section 20: Conditions of Licences**

This section provides that the Chief Inspector may impose conditions on licences.

*Nature of restriction:* Controls on price or production - in that it may limit species, which may be slaughtered, or areas from which game meat can be harvested. Quality - in that it may require compliance with a quality assurance program, a standard or a code of practice.

*Description:* The Chief Inspector may impose conditions on licences. These are likely to require that nationally agreed hygiene standards be followed.

*Likely effect on the economy.* Minimal. This section is likely to be used only in rare, exceptional circumstances. Maintaining a flexible licensing regime contributes to the economy by maintaining market access for the Territory's valuable meat industries. The reviewers consider that the net impact of maintaining these restrictions is positive.

*Costs vs. benefits:* It is considered unlikely that consumers would be able to access cheaper meat if these restrictions were removed. The potential cost of food-borne disease outbreaks, or of meat substitution scandals, as a result of removal of licensing requirements is considerable. The reviewers consider that the costs, including social costs, of removing these restrictions outweigh the possible benefits in terms of cheaper product.

*Comment:* This could be implemented in arbitrary fashion. However, such improper exercise of power would be open to legal redress.

### **Section 26: Transfer of Licence**

This section provides that the Chief Inspector may transfer various types of licence.

*Nature of restriction:* Governs the entry of individuals into a market - in that it institutes a licensing regime.

*Description:* The Chief Inspector may transfer various licences except game meat slaughter or pet meat slaughter licence provided the application meets certain conditions inline with application for a licence. There is no limit to the number of licences that may be transferred, and the impact on established meat industry operations is not taken into account in considering applications.

*Likely effect on the economy.* Development of the meat industry might be facilitated in a minor way if these restrictions were removed. However this would be at the expense of the credibility of the industry in the eyes of the consumer and of national and international markets. Maintaining a licensing regime contributes to the economy

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by maintaining market access for the Territory's valuable meat industries. The reviewers consider that the net impact of maintaining these restrictions is positive.

*Costs vs. benefits:* It is considered unlikely that consumers would be able to access cheaper meat if these restrictions were removed. The potential cost of food-borne disease outbreaks as a result of removal of licensing requirements is considerable. The reviewers consider that the costs, including social costs, of removing these restrictions outweigh the possible benefits in terms of cheaper product.

*Comment:* Licensing regimes by their nature can be seen as anti-competitive but this is seen to be in the public interest in this 'high risk' industry where there are Australia-wide Standards and international certifications to be upheld.

### **Section 29-32: Nomination of manager**

These sections require that a manager be appointed to assist the licensee in supervising operations at an establishment. It applies a "fit and proper" test on the nomination.

*Nature of restriction:* Governs the entry of individuals into a market - in that it may preclude some individuals from becoming managers of establishments if they are deemed to be not "fit and proper" persons.

*Description:* Having a manager who can supervise operations in the absence of the licensee facilitates effective management of facilities.

*Likely effect on the economy.* Minimal. Maintaining a flexible licensing regime contributes to the economy by maintaining market access for the Territory's valuable meat industries. The reviewers consider that the net impact of maintaining these restrictions is positive.

*Costs vs. benefits:* It is considered unlikely that consumers would be able to access cheaper meat if these restrictions were removed. The potential cost of food-borne disease outbreaks as a result of removal of licensing requirements is considerable. The reviewers consider that the costs, including social costs, of removing these restrictions outweigh the possible benefits in terms of cheaper product.

*Comment:* These provisions may be seen as inhibiting management of meat establishments, but are required to uphold the 'fit and proper persons' requirements of the meat industries regime. The provisions could be implemented in an arbitrary fashion. Such improper exercise of power would be open to legal redress.

### **Section 33-34: Offences**

These sections provide that persons may not sell meat, slaughter an animal or process meat for human consumption except in accordance with a licence.

*Nature of restriction:* Governs the entry of individuals into a market - in that it requires that some industry operators be licensed. Controls on price or production - in that it requires that industry premises be licensed.

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*Description:* This is a central provision to uphold the licensing regime. It is an offence to slaughter, process or sell meat other than under a licence. Licensing is used to ensure that hygiene standards are met and that meat substitution is deterred.

*Likely effect on the economy.* Minimal adverse impact. Licences are easily obtained for persons or facilities that meet with the reasonable requirements. On the other hand, removal of these restrictions could have far-reaching negative impacts on the economy by permitting situations to develop in which food-borne disease outbreaks could be more common, and meat substitution by only one operator could threaten market access for Australia's meat industries. The reviewers consider that the net impact of maintaining these restrictions is positive.

*Costs vs. benefits:* It is considered unlikely that consumers would be able to access cheaper meat if these restrictions were removed. The potential cost of food-borne disease outbreaks as a result of removal of licensing requirements is considerable. The reviewers consider that the costs, including social costs, of removing these restrictions outweigh the possible benefits in terms of cheaper product.

*Comment:* These sections have anti-competitive tendencies but are required to uphold the licensing regime and are not excessive or unjustifiable.

### **Section 34(4)(c): Advertising at a residence used for commercial meat processing**

This subsection limits the size of advertising signs at a residence used for commercial meat production. Nature of restriction: Advertising.

*Description:* Section 34(4) in fact provides for small "cottage industry" operations, such as might be set up by a person preparing product for cooking and sale at local markets. This method of defining a cottage industry is as used in the

*Planning Act* and the special provisions for these operators were supported by Territory Health Services when the Act was drafted.

*Likely effect on the economy.* Section 34(4) is intended to facilitate small cottage industry operations, which are defined under section 34(4) consistently with the *Planning Act* definition. There is no adverse impact from this provision.

*Costs vs. benefits:* Removing this provision would hinder the operation of s.34(2)(b) as the size of the advertising signage is simply used to define a cottage industry situation.

The *Planning Act* requirement would still prevent development of meat industry operations in residences.

*Comment:* This provision could be seen as actually assisting competition in that 'cottage industries' do not have to meet the same standards required of 'commercial' licensees. It is considered that no change is required to this section.

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### **Section 36-38: Pet Meat Offences**

These sections provide that persons may not sell, slaughter, process or purchase pet meat except in accordance with a licence, and except if it is dyed blue as prescribed.

*Nature of restriction:* Governs the entry of individuals into a market - in that it requires that some industry operators be licensed. Controls on price or production - in that it requires that industry premises be licensed, and that product be identified.

*Description:* This is a central provision to uphold the pet meat-licensing regime. It is an offence to slaughter, process or sell meat other than under a licence. Licensing is used to protect public health by imposing basic hygiene standards (as pet meat is often cut up in kitchens where meat for human consumption is prepared) and to deter meat substitution.

*Likely effect on the economy:* Minimal adverse impact. Licences are easily obtained for persons or facilities that meet with the reasonable requirements. On the other hand, removal of these restrictions could have far-reaching negative impacts on the economy by permitting situations to develop in which food-borne disease outbreaks could be more common, and meat substitution by only one operator could threaten market access for Australia's meat industries. The reviewers consider that the net impact of maintaining these restrictions is positive.

*Costs vs. benefits:* It is considered unlikely that consumers would be able to access cheaper pet meat if these restrictions were removed. The potential cost of food-borne disease outbreaks, and meat substitution scandals, as a result of removal of licensing requirements is considerable. The reviewers consider that the costs, including social costs, of removing these restrictions outweigh the possible benefits in terms of cheaper product.

*Comment:* These sections have anti-competitive tendencies but are required to uphold the licensing regime and are not excessive or unjustifiable.

### **Section 39: Transport of Pet Meat**

This section regulates transport of pet meat.

*Nature of restriction:* Controls on price or production - in that it requires that pet meat have been produced under a licence. Quality - in that transport conditions must not be conducive to deterioration of the product.

*Description:* This provision assists in establishing an audit trail to deter meat substitution, upholds the pet meat-licensing regime, and protects against deterioration of product.

*Likely effect on the economy:* Minimal adverse impact. On the other hand, removal of these restrictions could have far-reaching negative impacts on the economy by permitting situations to develop in which food-borne disease outbreaks could be more common, and meat substitution by only one operator could threaten market access for Australia's meat industries. The reviewers consider that the net impact of maintaining these restrictions is positive.

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*Costs vs. benefits:* It is considered unlikely that consumers would be able to access cheaper pet meat if these restrictions were removed. The potential cost of food-borne disease outbreaks, and meat substitution scandals, as a result of removal of transport requirements is considerable. The reviewers consider that the costs, including social costs, of removing these restrictions outweigh the possible benefits in terms of cheaper product.

*Comment:* This section has anti-competitive tendencies but is required to uphold the integrity of the industry sectors and to deter meat substitution and is not excessive or unjustifiable.

### **Section 42: Persons with disease**

This section prohibits persons with prescribed diseases from working in meat establishments.

*Nature of restriction:* Governs the entry of individuals into a market - in that it requires that persons working in meat establishments should not have transmissible diseases so as not to spread the disease.

*Description:* This provision is to protect public health.

*Likely effect on the economy:* No adverse impact. On the other hand, removal of this restriction could have negative impacts on the economy by permitting situations to develop in which food-borne disease outbreaks could be more common. The reviewers consider that the net impact of maintaining these restrictions is positive.

*Costs vs. benefits:* Consumers would not be able to access cheaper meat as a result of removal of this restriction, but could possibly gain access to food-borne diseases. The reviewers consider that the costs of removing these restrictions outweigh any possible benefit in terms of cheaper product.

*Comment:* This section could be read, as anti-competitive but public health considerations are paramount.

### **Section 44: Persons not to alter meat establishment**

This section restricts persons from altering meat establishments except in accordance with their licence or a direction from an inspector.

*Nature of restriction:* Controls on price or production - in that it controls the manner in which changes can be made to a licensed establishment.

*Description:* This provision upholds the premises licensing provisions.

*Likely effect on the economy:* No adverse impact. Alterations to premises may be made after application for a licence variation. Approval depends on nationally recognised hygiene standards being met.

*Costs vs. benefits:* Consumers would not be able to access cheaper meat as a result of removal of this restriction, but could possibly gain access to food-borne diseases.

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The reviewers consider that the costs of removing these restrictions outweigh any possible benefit in terms of cheaper product.

*Comment:* This section could be read, as anti-competitive but public health considerations are paramount.

### **Section 46: Falsely identifying meat**

This section prohibits persons from falsely identifying meat for sale.

*Nature of restriction:* Control on price and production - in that it prevents fraudulent misrepresentation of meat.

*Description:* This provision is to deter meat substitution and to protect against the major national impacts that could flow from a meat substitution scandal.

*Likely effect on the economy.* No adverse impact. On the other hand, removal of this restriction could have negative impacts on the economy by permitting meat substitution to occur. Non-compliance by one small operator could jeopardise Australia's entire meat industries.

*Costs vs. benefits:* Consumers would not be able to access cheaper meat as a result of removal of this restriction. In fact, meat might be more expensive if cheaper cuts were passed off as more expensive ones. The reviewers consider that the costs of removing these restrictions outweigh any possible benefit in terms of cheaper product.

*Comment:* This section could be read as anti-competitive but public health and trade considerations are paramount. Although misrepresentation could be prosecuted under other legislation - the Commonwealth Trade Practices Act or the NT *Consumer Affairs and Fair Trading Act* - in practice it is useful to have this regulated in an agency that has special responsibility for this industry.

### **Section 53: Transportation of meat**

This section regulates transport of meat for human consumption.

*Nature of restriction:* Controls on price or production - in that it requires that meat have been produced under a licence. Quality - in that meat must be identified and transported in certain ways.

*Description:* This provision upholds the Act's licensing regime, and regulates labelling and hygienic transport.

*Likely effect on the economy:* Minimal adverse impact. On the other hand, removal of these restrictions could reduce food safety for consumers and reduce the accuracy of labelling. The reviewers consider that the net impact of maintaining these restrictions is positive.

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*Costs vs. benefits:* It is considered unlikely that consumers would be able to access cheaper meat if these restrictions were removed. The reviewers consider that the costs, including social costs, of removing these restrictions outweigh any possible benefit in terms of cheaper product.

*Comment:* This section has anti-competitive tendencies but is required to uphold food safety and accurate labelling.

### **Regulations 4 & 15: Pet meat imported into establishment**

These regulations prohibit meat-for-human-consumption licensees from bringing pet meat into their establishments.

*Nature of restriction:* Controls on price or production - in that they prevent movement of pet meat product into an establishment producing meat for human consumption.

*Description:* This ensures separation of pet meat and meat for human consumption sectors, to deter meat substitution.

*Likely effect on the economy.* Minimal adverse impact. Abattoirs can still produce pet meat from animals slaughtered on the premises. Removal of this restriction could have negative impacts on the economy by facilitating meat substitution with potentially massive impacts on Australia's meat industries. The reviewers consider that the net impact of maintaining these restrictions is positive.

*Costs vs. benefits:* Removal of this restriction would be unlikely to result in significantly cheaper pet meat being produced. The reviewers consider that the costs of removing these restrictions outweigh any possible benefit in terms of cheaper product.

*Comment:* These regulations could be read as anti-competitive but they maintain integrity of the two market sectors.

### **Regulation 17: Processing only permitted at establishment**

This regulation prohibits licensees from doing things other than at the establishment to which the licence relates.

*Nature of restriction:* Controls on price or production - in that licensed operations must be done in licensed premises.

*Description:* This ensures the integrity of the premises licensing system.

*Likely effect on the economy.* Minimal adverse impact. Licensees can apply for licences for additional premises if they desire. Those premises must meet with nationally agreed hygiene standards. The reviewers consider that the net impact of maintaining these restrictions is positive.

*Costs vs. benefits:* Removal of this restriction would be unlikely to result in significantly cheaper meat being produced. The reviewers consider that the costs of

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removing these restrictions outweigh any possible benefit in terms of cheaper product.

*Comment.* These regulations could be read as anti-competitive but they maintain integrity of the licensing system.

### **Regulation 33: Shooting of animals**

This section prohibits employees of licensed pet meat slaughterers from killing animals under their employer's licence.

*Nature of restriction:* Governs the entry of individuals into a market - in that it requires that the actual shooter be licensed.

*Description:* This provision is to ensure that a paper trail is readily auditable to deter meat substitution. Pet meat shooters operate in remote relatively inaccessible areas and personal licensing assists in keeping track of their activities.

*Likely effect on the economy:* No adverse impact. Pet meat slaughtering licences are readily obtained. On the other hand, removal of this restriction could facilitate meat substitution by shooters operating with no possible monitoring for compliance. The net impact of maintaining these restrictions is positive.

*Costs vs. benefits:* Removal of this restriction would be unlikely to result in significantly cheaper meat being produced. The reviewers consider that the costs of removing these restrictions outweigh any possible benefit in terms of cheaper product.

*Comment:* These regulations could be read as anti-competitive but they maintain integrity of the licensing system.

ATTACHMENT B

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Mr. Ken Cohalan  
Chair of Independent Review Panel for NT Meat Industries Act  
C/o Department of Primary Industry and Fisheries  
GPO Box 990  
DARWIN NT 0801

Dear Ken

**RE: NATIONAL COMPETITION REVIEW OF THE NT MEAT INDUSTRIES  
ACT - BENEFITS AND COSTS**

The following are my opinions, as a professional economist, on the benefits and costs associated with the *Meat Industries Act* of the Northern Territory. They are provided in the context of the National Competition Review of the Act. They are provided to you in response to your request to me.

***Objectives of Legislation***

Benefits and costs are relevant only when objectives are clearly defined. My understanding of the Act is that the key objectives are "To protect human health and meat markets through .....". I recommend that the wording of the objectives in the Act be changed to focus on the socio-economic objectives rather than the mechanisms of the Act.

***Property Rights***

The key objectives of this Act clearly do not involve any allocation of exclusive property rights. This Act contrasts with, for example, the *NT Mining Act* and the *NT Fisheries Act*, both primarily concerned with the allocation of exclusive Crown property rights. The *NT Meat Industries Act* does not attempt to exclude enterprise operations on commercial grounds but only on safety and product quality grounds.



### ***Intervention Rationale***

NCP Review of the *Meat Industries Act* was initially prepared in December 1999. In the follow up to this review, concerns have been formally expressed by other agencies questioning the justification for continued government intervention in those activities associated particularly with the processing of meat for crab bait.

In my opinion is that there are two very compelling reasons for government intervention in all those activities associated with meat processing, including meat for crab bait. Firstly, the risks of the loss, even temporarily, of Australian and international meat markets are very high in the event of any cross-species contamination. Australian history is witness to this reaction. In the event of a breakdown, the costs (loss of markets) are liable to be borne not only by the offenders but also by many other operators in the meat processing and allied industries.

Secondly, there is the public good associated with food safety. The public demands a very high standard with respect to food safety not only for individual health reasons but also because of the perceptions and knowledge that various forms of food contamination can spread easily through the population.

### ***Benefits and Costs***

Benefits of the Act derive from preventing the closure of domestic and global meat markets to NT meat. The loss of these markets would represent over \$20 million annually to the NT. More importantly the export markets for Australian meat represents over \$4 billion annually. Events, such as meat substitution, if they were to occur in one processing plant can readily lead to policy reactions affecting the whole of the Australian meat industry. Even temporary or partial closure of these markets represents a significant loss to the economy.

Benefits also derive from the cost savings associated with preventing human food poisoning. The benefits are in the form of saving in medical and associated costs and the prevention of a downturn in the demand for meat products.

Costs associated with the supervision of the NT *Meat Industries Act* are understood to be less than \$300,000 annually. The meat processors to comply with the Act will incur additional operational costs. A major portion of the compliance cost would be incurred anyway in meeting the demands of the consumers. Additional compliance costs specifically to meet the legislative requirements are likely to be relatively small, perhaps in the same order of magnitude as the supervision costs. These compliance costs are expected to be broadly similar across Australia, thus giving competitive neutrality between individual processors.

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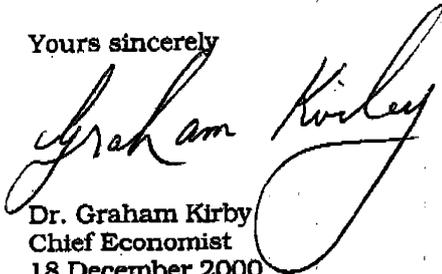
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Implementation of the Meat Industries Act represents a form of risk management on behalf of the NT and Australian communities. The benefits of the risk management are shared between industry and consumers. The direct costs are borne jointly by industry and the government while indirect costs are borne by consumers in the form of marginally higher meat prices.

In my opinion, the extra costs incurred by the operations of the Act will be outweighed many-fold by the benefits gained from reducing the chances of market and health losses.

Finally, I note that there may be equity issues arising from the Act but these would be addressed government and industry outside of the NCP Review.

Yours sincerely



Dr. Graham Kirby  
Chief Economist  
18 December 2000

## **Appendix 2**

### **Training Requirements for Graduate Surveyors**

**(see Chapter 18 – Planning, Construction  
and Development Services)**

**TRAINING REQUIREMENTS  
FOR  
GRADUATE SURVEYORS  
UNDER  
NORTHERN TERRITORY  
LICENSED SURVEYORS ACT**

**ADOPTED BY  
N.T. SURVEYORS BOARD**

OCTOBER 1984  
AMENDED OCTOBER 1985  
AMENDED APRIL 1986  
AMENDED OCTOBER 1987  
AMENDED JULY 1988  
AMENDED JUNE 1997  
AMENDED JULY 2001

## **1. Training Requirements**

- 1.1 A graduate surveyor is required to complete two (2) years satisfactory practical training with a licensed surveyor, who shall themselves have been registered for a minimum of two (2) years, undertake suitable practical projects and pass the professional assessment test before becoming eligible for registration as a licensed surveyor.

## **2. Qualifications**

- 2.1 A graduate surveyor is required to have the educational qualifications acceptable to the Reciprocating Surveyors Boards of Australia or New Zealand before he or she can enter into a Training Agreement with a licensed surveyor.

## **3. Practical Training**

- 3.1 The period of training shall include at least twelve (12) months (240 days) on cadastral surveys. The cadastral surveys should include a sufficient amount of rural and urban work in the Northern Territory. Arranging the variety of work is the responsibility of the supervising surveyor and the trainee. It is expected that the trainee will undertake at least five surveys in each arena.
- 3.2 An exemption of up to twelve (12) months out of the twenty four (24) months required may be granted for training gained under the supervision of a licensed surveyor outside the Territory, provided the graduate surveyor lodges with the Board a report as per form 3.
- 3.3 The Board may accept training and experience gained during vacation periods by a student undertaking a course of study in surveying leading to him or her obtaining the approved qualifications of a graduate surveyor, without requiring him or her to enter into a Training Agreement, provided that the total period of such training and experience acceptable shall-
  - 3.3.1 not exceed six (6) months
  - 3.3.2 have been gained under a licensed surveyor engaged in land boundary definition during that period and
  - 3.3.3 be covered by a certificate from the surveyor satisfactory to the Board.
- 3.4 A Professional Training Agreement must be provided by the graduate surveyor and lodged with the Board within two (2) months of the commencement of the Agreement, unless otherwise determined by the Board.
- 3.5 A report signed by a licensed surveyor detailing the experience gained by the graduate surveyor as per Form 3 shall be lodged with the Board at intervals of not more than six (6) months. Failure to do so may result in the Board not accepting part or all of the experience claimed in the late report.

- 3.6 Upon completion of the period of practical training, the licensed surveyor shall provide the Board with a statement that, in his or her opinion, the graduate surveyor is capable of undertaking land boundary surveys unsupervised.
- 3.7 A licensed surveyor shall not enter into Training Agreements with more than two (2) graduate surveyors at any one time.
- 3.8 Where the Board is of the opinion that the experience gained or instruction given is not adequate, a further period of training will be required.
- 3.9 Graduate surveyors who have been notified by the Board that a sufficient period of practical training has been completed shall commence the Professional Assessment Examination within two (2) years of notification. The Board may require additional evidence of recent experience if there is a delay of more than two (2) years.

#### **4. Practical Projects**

- 4.1 During his practical training, the graduate surveyor is required to carry out the projects listed at 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.2.5 and 4.2.6, and lodge the plans, field notes (where necessary) and reports with the Board for its approval. The plans, field notes, calculations and reports shall all be certified by the graduate surveyor as being his or her own work.
- 4.1.1 The graduate surveyor is required to have completed at least six (6) months practical training in cadastral surveying in the Northern Territory, as notified in accordance with section 3.5, before lodging the results of projects 4.2.1 and 4.2.2.
- 4.1.2 The results of projects 4.2.3, 4.2.4, 4.2.5 and 4.2.6 may be submitted to the Board for assessment at any time following registration of a training agreement.
- 4.1.3 Exemption may be granted from projects 4.2.3 (engineering survey) and 4.2.6 (geodetic survey) on the basis of an equivalent project completed under other educational or training programs, including undergraduate studies, providing that an application to the Board for exemption is made within three (3) years of completion of the project or if in excess of three (3) years, as approved by the Board.

## 4.2 The practical projects shall be -

### 4.2.1 Urban Cadastral Survey

A survey of an urban allotment of reasonable complexity, with at least one (1) obstructed boundary; or a similar survey that is approved by the Board. (Plan, field notes and report are required).

### 4.2.2 Rural Cadastral Survey

A survey of a rural allotment of at least forty (40) hectares, where at least two (2) boundaries are re-instatements from previous surveys and at least one (1) other boundary is a natural feature such as a water course or a non-straight road; or a similar survey which is approved by the Board. (Plans, field notes and report are required).

### 4.2.3 Engineering Survey

A survey and design of a proposed road, railway or drainage work at least five hundred (500) metres in length, requiring horizontal and vertical curve calculations; or a similar engineering project which is approved by the Board. (Plans of longitudinal and cross sections, drainage calculations and volumes of cut and fill are required).

### 4.2.4 Subdivision Development

The preparation of an application for development consent under the Northern Territory Planning Act to subdivide a parcel of land into not less than ten (10) lots. At least one (1) new access road is to be incorporated into the subdivision. The site may be either urban or rural but should be taken from within a locality that is subject to a control plan under the Planning Act. One copy only of each of the forms, plans and documents required to accompany the application is to be submitted.

The project is to include a report outlining the development approval process that applies to the granting of a Development Permit to subdivide land under the Planning Act.

### 4.2.5 Units Development

In report form, detail the processes in a units development from the proposal and approval stages through to the registration of unit titles. The report is to include completed application forms and a Units Plan as required under the Real Property (Units Titles) Act which may be based upon an actual or hypothetical development.

#### 4.2.6 Geodetic Survey

A survey for the determination of GDA-94 spheroidal coordinates and MGA-94 rectangular coordinates of at least four (4) points containing an area in excess of 20 hectares to 2nd Order accuracy as specified in the Standards and Practices for Control Surveys issued by the Intergovernment Committee for Surveying and Mapping (ICSM Publication SP1). Field notes and a report are to accompany all relevant reductions and calculations.

- 4.3 If the Board is not satisfied with any of the projects submitted, then it may return the project to the graduate surveyor for additional field work, plans or report.

### 5. Professional Assessment

- 5.1 Final assessment shall not commence until all projects are satisfactorily completed and the requirements for practical training are satisfied.
- 5.2 Assessment shall consist of the following tests -
- 5.2.1 A practical test on the adjustment and use of a theodolite and level, and the standardisation of distance measuring equipment, including tapes.
- 5.2.2 A survey of an area to title accuracy to demonstrate knowledge of proper survey techniques and the use of a theodolite, tape and electronic distance measuring equipment.
- 5.2.3 Levelling of a series of nominated points.
- 5.2.4 Determination of azimuth by solar or stellar observations.
- 5.2.5 An oral examination before the Board (or nominated member) on law relating to survey, survey practice generally and the practical projects submitted.
- 5.3 Professional assessment will be held twice yearly as required.

## **Appendix 3**

### **Surveyors Board of The Northern Territory - Model Training Agreement**

**(see Chapter 18 – Planning, Construction  
and Development Services)**

**SURVEYORS BOARD OF THE  
NORTHERN TERRITORY**

**MODEL**

**PROFESSIONAL TRAINING AGREEMENT**

**BETWEEN**

.....

**SUPERVISING SURVEYOR LS**

**AND**

.....

**GRADUATE SURVEYOR**

# **PROFESSIONAL TRAINING AGREEMENT**

## **1. PURPOSE**

This agreement records the training programme to be undertaken by the graduate surveyor (\_\_\_\_\_) under the guidance of the supervising surveyor (\_\_\_\_\_).

Except where stated otherwise, this agreement is intended to comply with the "Guidelines for Supervising Surveyors". It should be read in conjunction with those guidelines. Successful completion of the training programme should enable the graduate to attain registration as a licensed surveyor. It is expected that the graduate will then practise in his/her own right but under the general guidance of a senior professional surveyor for a period before practising autonomously.

## **2. THE SUPERVISING SURVEYOR**

Describe the supervising surveyor by name, address and qualifications. Give brief record of experience and appointments. List professional associations.

## **3. THE GRADUATE SURVEYOR**

Describe the graduate by name, address and qualifications. Make reference to academic record and experience in surveying contained in attachments.

## **4. THE COMPANY**

Describe the company by listing areas of operation and extent of involvement, principals and all types of work undertaken. More detail may be give under the following headings:

Quality Policy

Objectives

Organisational Structure

Equipment Resources

Strengths and Weaknesses

## **5. ESSENCE OF AGREEMENT**

The above named persons agree that:

- 5.1 The surveying graduate agrees to undertake training from the supervising surveyor to learn the profession of a land surveyor for the term of two (2) years commencing on the \* day of \* Two Thousand and \* (200\*) providing that, if the Surveyors Board so desires, the training period shall be varied to such period as the Board determines.
- 5.2 The surveying graduate will attend such place or places as the supervising surveyor shall require for the purpose of training.
- 5.3 The supervising surveyor will instruct the survey graduate in the profession of land surveyor or shall cause the surveying graduate to be so instructed.
- 5.4 The supervising surveyor will permit the surveying graduate to attend such lectures and examinations as may be requisite or proper for his/her better instruction in the profession of land surveyor.
- 5.5 The period of training shall include at least twelve (12) months (240 days) on cadastral surveys. The cadastral surveys should include a sufficient amount of rural and urban work. Arranging the variety of work is the responsibility of the supervising surveyor and the trainee. It is expected that the trainee will undertake at least five surveys in each arena.

## **6. THE GRADUATE SURVEYOR'S COMPETENCIES (INITIALLY)**

Ideally describe the competencies, experience and knowledge at the start of the training period here. If that is not practical, provide them on an attachment and refer to it at paragraph 3. This statement will assist the preparation of the training programme and its time schedule.

## **7. SCOPE OF TRAINING**

The training will include the subjects listed in the Guidelines for Supervising Surveyors.

## **8 LEVEL OF SUPERVISION**

The level of supervision provided will be as stated in the Board's Guidelines for Supervising Surveyors.

Strict supervision can only be relaxed as the graduate demonstrates that it is safe to do so. The graduate's rate of progress depends heavily on a progressively reduced level of supervision.

## **9. EXCLUSIONS**

If the company does not carry out some types of work (or some components of work), or use some type of equipment, which are essential or desirable for the graduate's development, they should be itemised. The responsibility for attaining this excluded experience should be allocated and if it is to be included within this training agreement the solution should be described. If the excluded training is to be achieved through another surveyor and company but within the ambit of this agreement, the responsibility of the supervising surveyor and the other surveyor should be set out.

## **10 TIME SCHEDULE**

It is recommended that the agreement include a time schedule targeting dates for achievement of each of the competencies described in the Board's Guidelines for Supervising Surveyors. This will allow both parties to monitor progress of the training, correct any identified problems and to understand the magnitude of the task from the start. The graduate should participate in the preparation of the time schedule.

## **11 RESPONSIBILITIES OF THE SUPERVISOR**

The responsibilities of the supervising surveyor under this agreement are as stated in the Board's Guidelines for supervising surveyors.

## **12. RESPONSIBILITIES OF THE GRADUATE**

The responsibilities of the graduate under this agreement are as stated the Board's Guidelines for Supervising Surveyors.

### **13 ACCOUNTABILITY AND REPUTATION**

It is recognized that the graduate (during this agreement and after licensing) is a reflection on the supervisor and on the company (in fieldnotes, project work and direct relations with the client and the public). The graduate's training is at least as important to the supervisor as the successful completion of survey jobs. The supervisor and company will provide every possible tuition, guidance and opportunity, but the graduate will only be progressed to the next stage when ability is proven.

Despite any intention of the graduate to specialize once licensed, this training must give a balanced general training in all aspects of cadastral work. Competency in all aspects must be demonstrated before the graduate will be recommended for the licence.

### **14. TRAINING REPORTS**

The graduate and the supervising surveyor will maintain the records required by Board's Guidelines for Supervising Surveyors and will submit training reports to the Board as required by the same guideline.

### **15. CERTIFICATION**

We the above named certify our acceptance of this professional training agreement.

Dated this \* of \*, Two Thousand and \*\* (20\*\*).

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Supervising Surveyor

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Surveying Graduate

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Witness

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Witness

Approved by the Surveyors Board of the Northern Territory

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Chairman

---

Secretary

Registered...../...../.....

# **SURVEYORS BOARD OF THE NORTHERN TERRITORY**

## **Guidelines for Supervising Surveyors and Surveying Graduates**

### **1. Introduction**

These guidelines are to inform supervising surveyors of their obligations and responsibilities in the training of surveying graduates under Professional Training Agreements. They are to be read in conjunction with the 'Training Requirements for Graduate Surveyors under the Northern Territory Licensed Surveyors Act' at attachment C.

Professional Training Agreements are taken very seriously by the Board. Although the Board conducts a final examination of graduates prior to granting Certificates of Competency, it can only ever be a general indication of the competence of the candidates. The real tests occur during the life of the Professional Training Agreement where the level of knowledge and character necessary to become a professional surveyor is determined by the supervising surveyor. It is only when a graduate has achieved that standard in the mind of the supervisor that approval should be given for the graduate to present to the Board in the final examinations. Poorly presented candidates reflect on the reputation of the supervising surveyor.

This approach to training places clear obligations on the supervising surveyor, not just toward the surveying graduate, but equally to the future profession of surveying.

During the training agreement and after licensing, the graduate is a reflection on the supervisor and on the company (in fieldnotes, project work and direct relations with the client and the public). The graduate's training must be at least as important to the supervisor as the successful completion of survey jobs. The supervisor and company should provide every possible tuition, guidance and opportunity and the graduate should only be progressed to the next stage when ability is proven.

Despite any intention of the graduate to specialise once licensed, this training must give a balanced general training in all aspects of cadastral work. Competency in all aspects must be demonstrated before the graduate is recommended for the licence.

## **2. Definitions**

In these guidelines the following expressions have the following meanings:

- “Board” means the Surveyors Board of the Northern Territory established under the Licensed Surveyors Act 1983.
- “Graduate” means a surveying graduate who is a party to a Professional Training Agreement. The surveying graduate is required to have the educational qualifications acceptable to the Reciprocating Surveyors Boards of Australia and New Zealand.
- “Supervising Surveyor” or “Supervisor” means a licensed surveyor who agrees to supervise a graduate under a Professional Training Agreement.

## **3. The Professional Training Agreement**

The purpose of the professional training agreement (PTA) is to provide the graduate with a structured training program of education and development of attitudes and skills. The PTA should be structured so as to enable the graduate to progress to the level of a competent professional surveyor in an efficient and effective manner. The PTA should take into account local conditions and specialisations. It should be prepared by the supervising surveyor in consultation with the graduate.

The graduate is required to complete a minimum of two (2) years (480 days) practical training. Refer to attachment C for more details.

The period of training shall include at least twelve (12) months (240 days) on cadastral surveys. The cadastral surveys should include a sufficient amount of rural and urban work in the Northern Territory. Arranging the variety of work is the responsibility of the supervising surveyor and the trainee. It is expected that the trainee will undertake at least five surveys in each arena.

## **4. Competency Standards**

The Institution of Surveyors Australia Incorporated (ISA) in conjunction with the Reciprocating Surveyors’ Boards of Australia and New Zealand has developed “National Competency Standards for Professional Surveyors”. While those standards (published in July 1996) do not specifically deal with cadastral surveys, these guidelines are based on those general standards.

In particular, pages 51 through 66 of those National Competency Standards (which can be found at <http://www.isaust.org.au/members/issues/cbstds/cbstds.htm>) detail the necessary “Key Competencies” for stage 2 (equivalent to the period of a professional training agreement).

Supervisors are to ensure that graduates achieve the level of competency and professional development required by the Board as outlined herein and in the competency based standards for surveyors. Graduates should be exposed to a variety of surveys

and challenged by difficult and complex situations. Supervisors are to ensure that any deficiencies in the graduate's skills are rectified.

The training should be broadly based, not specialised. The training subjects which should be covered are detailed in attachment A. Some require full competence while others only require an awareness at the licence level and others are individually optional.

Two topics deserve special mention as they are vital to the ultimate professionalism of every surveyor-

- Professional ethics should be impressed on the graduate both by example and by instruction throughout the period of the PTA; and
- Leadership is a quality necessary to all surveyors.

## **5. Skills To Be Taught**

In transforming the generic competencies to the specific cadastral area, it is recommended that during the period of a professional training agreement the following subjects be covered:-

### *5.1 Safety*

- Safe working practices. The teaching of safe working practices must precede any other training.

### *5.2 Basic Practical Field Skills*

- Linear measurements using steel band and electronic distance measuring equipment,
- Theodolite angle measurement,
- Levelling,
- Electronic and manual methods of data recording,
- Placement and referencing of boundary and general survey marks,
- Independent checking of observations and error-elimination procedures,
- Use and maintenance of tools, equipment, and vehicles,
- Safety procedures and safe work practices.

### 5.3 *Rural/Urban Cadastral Re-Establishment Of Alignments*

- Location of old survey marks and occupation
- Re-establishment of title boundaries through the analysis of available evidence,
- Determination of adoptions based on the principles associated with crown boundaries, previous surveys, survey marks, and occupation.

### 5.4 *Map, Geodetic And Height Datums*

- Field surveys based on the Geocentric Datum of Australian (GDA), its derivation, the Map Grid of Australian (MGA), and the Australian Height Datum.
- General engineering and topographic surveys based on local grids and control traverses.
- The dependence of Global Positioning System surveys upon these datums.

### 5.5 *Accuracy*

- The standards of accuracy required in field surveys.
- How to achieve the necessary standard in each situation encountered.

### 5.6 *Team Leadership*

- Staff supervision and field party leadership,
- Responsible use of vehicles and equipment,
- Bushcraft, especially in remote areas,
- Responsibility for the team.

### 5.7 *Survey Information*

- Searching and interpretation of title and survey information from the various sources.
- The relevance and availability and use of this analogue and digital information, (not necessarily familiarity with the physical actions of obtaining the information).

### 5.8 *Survey Computations*

- Computer hardware and software and their applications to surveying and a surveying practice in general.
- The application of general survey computations learned in the degree course.
- Calculation of re-establishment of cadastral alignments:-
- including distribution of original errors into the most probably correct places;
- achieving a best fit of boundaries to available original marks and dimensions; and
- taking into account legal implications.

### 5.9 *Plan Drafting*

- Familiarity with the different requirements (regulations, guidelines and conventions) for drafting plans under the various land tenure Acts - sufficient to instruct and control the drafting, not necessarily enough to physically draft the plans personally.

### 5.10 *Documentation*

- Preparation of the other survey and business documentation related to surveys (eg field notes, sketch plans, applications, reports and correspondence).

### 5.11 *Calibration*

- Understanding of the need for repeated calibration of equipment, and competency in the calibration of all equipment and instruments used.

### 5.12 *Ethics*

- Ethics, as apply to a professional person generally, and as apply to a licensed surveyor in particular.

### 5.13 *Knowledge of Relevant Legislation*

- Familiarity with the various Acts, regulations, directions, guidelines and manuals relevant to a survey practice. These are listed at attachment B of this manual.
- Awareness of Common Law as it affects land tenure.
- Sound knowledge of the various regulations, directions and guidelines related to authorised surveys. This should include the practices and procedures of the various survey registering agencies. It is emphasised that training in the practical application of the regulations is essential. Acts, regulations, directions, guidelines and procedures are now changing frequently, so it is necessary that library and knowledge be kept up to date.

### 5.14 *Land Development Process*

- Experience of the total subdivision process, including planning procedure, local government, servicing authorities, engineering and finance.

### 5.15 *Survey Office Procedures*

- Survey office procedures with an emphasis on quality assurance and the avoidance of mistakes.

### 5.16 *Unit Titles*

- The Unit Titles Act and associated plans and surveys.

### 5.17 *Digital Survey Data*

- Lodgement of survey data digitally with the various registration authorities in the formats required by them.

### 5.18 *Mining Surveys*

- Surveys under the Mining Act.

### 5.19 *Global Positioning Systems*

- Use of Global Positioning Systems, including handheld, static, Differential GPS and Real Time Kinematic.

It is expected that the graduate will be competent in all of the preceding subjects, 5.1 to 5.19, at the time of completion of the professional training agreement.

It is expected that the graduate will be aware or familiar with the following subjects, 5.20 to 5.21, at the time of completion of the professional training agreement, and that following licensing will work in a structure with limited guidance until competent in those subjects.

### 5.20 *Client Instructions and Liaison.*

- Including understanding clients needs and guiding their instructions to give them the best results. Informing them as to costs and time frame.
- Ongoing client relations.

### 5.21

### *Riparian Boundaries*

- Definition and re-establishment of tidal and non tidal riparian boundaries, the nature of those boundaries and the rights that are conferred.

While the above subjects give a basic training which will allow the licensed surveyor to practise effectively in a wide range of work; there are a number of other subjects which will either allow more efficient work in some situations or will allow specialised or unusual jobs to be carried out. It is recommended that some such subjects be covered by each graduate - and credit will be given for such subjects. A few such subjects are given below at 5.22 to 5.23.

### 5.22 *Engineering Surveys*

### 5.23 *Building Set-Out.*

- Experience in building set-out or control with respect to a boundary (not necessarily multi-storey)

## 6. Level Of Supervision

The philosophy of the Reciprocating Surveyors' Boards of Australia and New Zealand is that:-

- the surveyor is solely responsible for surveys carried out under his/her supervision, and
- surveyors should exercise a standard of supervision that will ensure the survey reflects his/her professional responsibilities and complies with relevant statutes.

The extent of supervision will vary according to the experience and skill and ethics of the graduate. The recommended level of supervision is as follows:-

- 6.1 The supervisor should fully brief the graduate on the purpose and details of the survey before the graduate commences involvement in that survey,
- 6.2 The supervisor should discuss all aspects of the survey with the graduate at the completion of the work,
- 6.3 Early in the training period the supervising surveyor should always accompany the graduate on site, until the graduate demonstrates an ability to act as team leader for some parts of the survey. From that time onwards the frequency of on site supervision can be reduced, but-
  - the supervisor should be present on sufficient occasions during each survey to ensure that the graduate's problems are solved expeditiously,
  - the supervisor should inspect the marking and physical aspects of the survey, and the field records, closes, re-establishment etc on its completion, and
  - the supervisor should effect sufficient angular and linear checks of the surveys to be satisfied with the standard and accuracy of the graduate's work.
- 6.4 Just before the successful completion of the training agreement it is acceptable for the supervision of the graduate to be reduced for the specific purpose of the further professional development of the graduate's work attitude and ethics.
- 6.5 The supervising surveyor will still be wholly responsible for the correctness of the surveys.

6.6 It is recommended that in the period of off-site supervision:-

- in the cases of simple jobs, the supervising surveyor should inspect the field record of each job, and
- in other cases the graduate should prepare a short survey report describing important aspects of each survey (particularly the re-establishment) and
- that this record be retained by the supervising surveyor and forms part of the off-site supervision. These reports could form part of the documentation presented to the Surveyors Board supporting the graduate's application for registration as a licensed surveyor.

6.7 Acceptance of only off-site supervision is limited to the final period of a graduate's training. It is never to be extended to a person who is not under a training agreement, no matter how extensive that person's experience.

6.8 Supervisors should act within the confines and the spirit of the certificate signed in each fieldbook (namely, "under my supervision") lodged during the period of a Professional Training Agreement. The fact that the supervisor has signed the plan and fieldbook indicates satisfaction as to the accuracy of the survey, that the survey is in accordance with the regulations, and an acceptance of full responsibility for the survey.

## **7. Responsibilities Of The Supervisor**

The professional training of a graduate is an important and demanding role, not one to be undertaken lightly or for the wrong reasons. The responsibilities of the surveyor include:-

- 7.1 Not enter into Training Agreements with more than two (2) graduates at any one time,
- 7.2 Provide the range of experience necessary for the graduate's development,
- 7.3 Provide the tuition and guidance necessary for the graduate's development (both technical and professional),
- 7.4 Wholly responsible for the correct performance of jobs by the graduate,
- 7.5 Treat the graduate's development as of primary importance and not just an ancillary activity to the running of the firm or the correct completion of surveys,
- 7.6 Encourage the graduate's participation in Board approved continuing professional development courses.
- 7.7 Responsible for effective feedback to the graduate on every job,
- 7.8 Report to the Board on a regular basis on the progress of the graduate's training.

- 7.9 Responsible for the decision to put the graduate forward for licensing. The Board must depend heavily on the surveyor's opinion as to the graduate's readiness,
- 7.10 The Professional Training Agreement should state the extent of the supervisor's responsibility (if any is accepted) for arranging or participating in training (of a stated nature) which is not available within the supervisor's firm. To clarify the extent or basis of the agreement it is beneficial for it to list the scope of work normally done by the supervisor, and to list any necessary types of work which the supervisor does not do.
- 7.11 It is recognised that the supervisor is not committed to successfully complete the graduate's development within any time frame, even though a time schedule is included in the agreement. The length of time necessary to complete the training is dependant on the endeavours of the graduate.

## **8. Responsibilities Of The Graduate**

- 8.1 Fundamental and general educational matters (including familiarity with Acts, regulations, guidelines and manuals) should not be neglected by the graduate.
- 8.2 The length of elapsed time before licensing is expected to be heavily dependant on the amount of personal time that the graduate is prepared to contribute during (and before) the Training Agreement.
- 8.3 The graduate is responsible for ensuring that sufficient time is spent on continuing professional development.
- 8.4 The graduate is responsible for keeping records of the training received and for informing the supervisor of any slippage of time.
- 8.5 To clarify the basis for the agreement (and to assist in preparing an achievable time schedule) it is beneficial for the agreement to include a realistic description of the graduate's competencies, experience and knowledge before entering the agreement.

## **9. Model Professional Training Agreement**

A model Professional Training Agreement is attached. It is recommended that the topics in that model be considered for inclusion in all training agreements. But every agreement is unique so the model should not be used uncritically as a pro forma.

## **10. Training Reports**

- 10.1 The following records should be maintained, to be submitted to the Board initially on a six monthly basis. The maintenance of these records not only make the interim and final reports easier to prepare, but also more readily identify any deficiencies in the training program.

### **BY THE GRADUATE:-**

- a work folder of completed training projects; and
- tables of experience (form 3) lodged at six month intervals recording the type of work experience and the accrual of training days.

### **BY THE SUPERVISING SURVEYOR:-**

- reports covering the level of skill and knowledge of the graduate, such that the degree and complexity of work and responsibilities can be analysed; and
- verification, comment and signing off of the graduate's training projects and tables of experience.

Each entry in the records described above in this paragraph should specifically state which of the skills listed in this document have been developed during that job.

- 10.2 Each supervisor who has undertaken in full or in part a component of a graduate's training is required to document the categories of training and the period during which it was undertaken. A certificate to that effect is required to be signed after each period as set out in Form 3 (copy attached).
- 10.3 The period and categories of training must aggregate to at least the minimum requirement set out in the Board approved agreement.
- 10.4 The Supervising Surveyor shall provide reports to the Board on a six (6) monthly basis as per form 4.
- 10.5 The Board will monitor the progress through the reports, and where necessary provide counselling and assistance to ensure appropriate training opportunities are provided to the graduate and support is available to the Supervising Surveyor.

## **11. Certificate of Professional Training**

When the graduate has completed the required amount of training and the supervisor is satisfied that the graduate is capable of undertaking land boundary surveys unsupervised, the supervisor is to complete a certificate of professional training. The certificate of professional training is form 5.

## **12. The Examination**

### **12.1 *Examination Timing***

The supervisor decides when a graduate has the all-round skills and knowledge to result in a successful completion of the Board's examination. There will always be personal and commercial pressures which may influence the timing of that decision. The focus must however always be on the capability of the graduate to perform as a licensed surveyor in their own right.

### **12.2 *Project Work***

The graduate is required to submit projects to the Board. Details of the required projects are at attachment C.

Although the project work must be the work of the graduate, the supervisor should check the work as correct. Sub-standard work reflects on the supervision.

### **12.3 *Equipment***

The supervisor should ensure that the graduate is given the best possible support to ensure a successful result at the Board's examination. This should include equipment and staff.

### **12.4 *Examination Preparation***

The supervising surveyor should consider work allocation immediately prior to the examination to allow the graduate adequate preparation opportunities.

## **13. Transfer Of An Agreement**

If circumstances arise such that the graduate's training can not be optimally managed by the supervising surveyor, then the supervising surveyor should arrange transfer of the professional training agreement, or in extreme cases its suspension or termination.

## **14. Dispute Resolution**

If the aspirations and commitments of both parties are discussed during the shared preparation of the agreement, and if the graduate's progress is discussed frequently during the period of the agreement, a dispute is unlikely.

If a dispute arises that can not be readily resolved by the supervisor and graduate the Board will willingly provide a Board member to assist with negotiations or resolution. Such assistance will not infer blame.

## **15 Termination Of Agreement**

It is prudent for both parties to include in the Professional Training Agreement a clause that outlines the circumstances and conditions relating to the termination of the agreement. The Board suggests that the provisions of paragraphs 13 & 14 above be fully considered before implementing such termination. The Board must be notified of the termination of an agreement. The notification should include evidence that both parties concur with the termination. The Board should be provided with a Certificate of Service for its records.

**FORM 3**

**LICENSED SURVEYORS ACT 1983  
 CERTIFICATE OF PROFESSIONAL TRAINING**

I, ....., a surveyor registered under the *Licensed Surveyor Act 1983* hereby certify that ....., a surveying graduate-

- (1) has been professionally and continuously employed with me in the practice of land surveying from ..... to ..... that is to say, for a period of ..... years and ..... months;
- (2) has, during the said period, gained the following experience -

Nature of Practical Experience Obtained by Candidate	Length of Time (in days) over which Candidate has Obtained Practical Experience Under Professional Training Agreement				
	Office Experience	Field Experience as a General Assistant	Field Experience as an Instrument Operator	Field Experience as a Party Leader	Total Experience Obtained
Land Boundary Surveys: - in Urban Areas - in Rural Areas					
Engineering Surveys					
Topographical Surveys					
Mining Surveys					
Control Surveys					
Other Surveys					
Total Experience					

Dated at ..... this day ..... of 20.....

.....  
 Licensed Surveyor

## FORM 4

# PROGRESSIVE REPORT OF PROFESSIONAL TRAINING PROGRAM

To be completed by the Supervising Surveyor and lodged with the Table of Experience at six month intervals.

TOPIC	Comple ted	Date	Signed
<b>Competency in:</b>			
Safe Working Practices			
Basic Field skills			
Error elimination			
Engineering survey			
Rural cadastral survey			
Urban cadastral survey			
AGD, GDA and AHD			
Achievement of accuracy			
Team leadership (field)			
Survey document eg. searches, field notes			
Survey computations			
Plan drafting			
Calibration			
Client instructions & liaison			
Repegs, idents, lease diag, easement diag			
Office procedures (QA)			
Land Development Process			
Knowledge of relevant Acts			
Ethics			
<b>Familiarity with:</b>			
Building set-out			
Use of GPS			
Digital Survey Data			
Riparian Boundaries			

Dated at ..... this day ..... of 20.....

.....Licensed Surveyor

**FORM 5**

**LICENSED SURVEYORS ACT 1983**

**CERTIFICATE OF PROFESSIONAL TRAINING**

I, ....., a surveyor registered under the *Licensed Surveyor Act 1983* hereby certify that ....., a surveying graduate- is fully competent to take responsibility for surveys effected.

Dated at ..... this day ..... of 20.....

.....Licensed Surveyor

## ATTACHMENT A

Safe Working Practices
Basic Field skills
Error elimination
Engineering survey
Rural cadastral survey
Urban cadastral survey
AGD, GDA and AHD
Achievement of accuracy
Team leadership (field)
Survey document eg. searches, field notes
Survey computations
Plan drafting
Calibration
Client instructions & liaison
Repegs, idents, lease diagrams, easement diagrams
Office procedures (QA)
Land Development Process
Knowledge of relevant Acts
Ethics
Building set-out
Use of GPS
Digital Survey Data
Riparian Boundaries

## **ATTACHMENT B**

### ***The Main NT Acts Relating to Licensed Surveyors***

Control of Roads  
Crown Lands  
Encroachment of Buildings  
Fences  
Land Title  
Lands Acquisition  
Law of Property  
Licensed Surveyors  
Local Government  
Mining  
Planning  
Real Property (Unit Titles)  
Unit Titles  
Water