NEW SOUTH WALES GOVERNMENT

Report to the National Competition Council on the Application of National Competition Policy in New South Wales

March 2003

Table of Contents

1. INTRODUCTION 1

1.1 OVERVIEW 1
1.2 2003 NCP ASSESSMENT 2
1.3 STRUCTURE OF THIS REPORT 2

2. ENERGY 3

2.1 ELECTRICITY 3
2.1.1 Derogations from the National Electricity Code 3
2.1.2 Electricity Tariff Equalisation Fund 3
2.1.3 National Transmission Grid Interconnection 3
2.1.4 National Electricity Market Institutional Arrangements 3
2.2 GAS 4
2.3 PETROLEUM 4

3. PRIMARY INDUSTRIES 5

3.1 AGRICULTURE 5
3.1.1 Grains 5
3.1.2 Poultry Meat 5
3.1.3 Rice 7
3.1.4 Agricultural and Veterinary Chemicals 8
3.1.5 Farm Debt Mediation 9
3.1.6 Stock Medicines 9
3.1.7 Food Regulation 9
3.1.8 Veterinary Surgeons 10
3.2 FISHERIES 11
3.3 MINING 12

4. TRANSPORT 14

4.1 TAXIS AND HIRE CARS 14
4.2 TOW TRUCKS 14
4.3 DANGEROUS GOODS 14
4.4 MARINE SAFETY 15
4.5 PORTS AND SHIPPING 15

5. HEALTH AND PHARMACEUTICAL SERVICES 16

5.1 NURSES 16
5.2 PODIATRISTS 16
5.3 PHARMACY 16
5.4 DENTISTS AND OPTOMETRISTS 17
5.5 DRUGS, POISONS AND CONTROLLED SUBSTANCES 18

6. LEGAL AND OTHER PROFESSIONAL AND OCCUPATIONAL LICENSING 19

6.1 LEGAL PROFESSION 19
6.1.1 NCP review recommendations 19
6.1.2 Advertising of Personal Injury Services 20
6.1.3 Legal Professional Indemnity Insurance 21
6.2 WOOL, HIDE AND SKIN DEALERS 22
6.3 EMPLOYMENT AGENTS 23
6.4 CONVEYANCERS 23
6.5 BOXING AND WRESTLING 23
6.6 ENTERTAINMENT INDUSTRY 24
6.7 HAIRDRESSERS 24
6.8 COMMERCIAL AGENTS AND PRIVATE INQUIRY AGENTS 25
6.9 DRIVING INSTRUCTORS 25

6.10 PAWNBROKERS AND SECOND-HAND DEALERS 26

7. WORKERS COMPENSATION 27

8. RETAIL TRADING ARRANGEMENTS (LIQUOR LICENSING) 28

9. FAIR TRADING AND CONSUMER PROTECTION LEGISLATION 29

10. SOCIAL REGULATION (GAMBLING) 30

10.1 LOTTERIES 30
10.2 CASINO 30
10.3 GAMING MACHINES 31
10.4 MINOR AND OTHER GAMBLING 32
10.5 TAB INVESTMENT LICENCE 33
10.6 RACING AND BETTING 35

11. PLANNING, CONSTRUCTION AND DEVELOPMENT 36

11.1 ARCHITECTS 36
11.2 SURVEYORS 36
11.3 VALUERS 36

12. COMPETITIVE NEUTRALITY 38

12.1 COMPETITIVE NEUTRALITY COMPLAINTS 38
12.2 2000-01 RATES OF RETURN FOR GOVERNMENT BUSINESSES 38

13. STRUCTURAL REFORM OF MONOPOLIES 40

ATTACHMENTS

ATTACHMENT 1: UPDATE ON PLANNING AND LAND USE……..…..41
ATTACHMENT 2: SIGNIFICANT New South Wales GENERAL GOVERNMENT SECTOR AGENCIES REQUIRED TO IMPLEMENT PRICING PRINCIPLES……..……..52
ATTACHMENT 3: NEW SOUTH WALES GOVERNMENT BUSINESS ENTERPRISES THAT HAVE OR ARE INTENDED TO BE CORPORATISED OR PRIVATISED……...55

1. Introduction

1.1 Overview

New South Wales has implemented substantial reforms to improve the efficiency and effectiveness of industry regulation and create competitive markets for public sector goods under the 1995 intergovernmental agreements for competition policy reform.

New South Wales is a leading state in NCP energy market reform and has met its structural reform obligations against Clause 4 of the Competition Principles Agreement (CPA). The Government has introduced full retail contestability in the electricity and gas markets, with over 306,000 small customers opting to enter into negotiated contracts as at the end of February 2003. New South Wales is participating in further development of the national electricity market and institutional arrangements.

The Government has completed all agreed road transport reforms, as endorsed by the Council of Australian Governments (COAG).

New South Wales has made substantial progress in fulfilling its obligations under the 1994 COAG *Strategic Water Reform Framework*. Achievements include independent price regulation for the bulk of water use in New South Wales, widespread adoption of cost reflective water pricing and, through the *Water Management Act 2000*, new water sharing arrangements which give clear priority to the environment and establish clear water access rights and water trading rules. Water reform is an area that will continue to be monitored by the National Competition Council for all jurisdictions after the 2003 assessment period.

New South Wales has also introduced major structural changes to the regulation and management of government businesses. New South Wales has undertaken systematic reform of public monopolies and provided third party access to services provided by significant infrastructure facilities. All major businesses with monopoly characteristics are subject to independent price oversight by the Independent Pricing and Regulatory Tribunal. All government businesses operate within a comprehensive commercial policy framework.

The Government is coming to the end of an extensive program of legislation review and reform. The Government has also established a regulatory environment that promotes systematic and transparent assessment of the costs and benefits of all proposed government regulations.

Legislation review and reform activity forms the bulk of priority reporting areas identified by the NCC for the final 2003 Assessment. New South Wales notes that a number of NCP reviews have served as a vehicle for broader regulatory improvements in governance and policy, resulting in better overall frameworks for achievement of the Government's policy objectives. The New South Wales Government remains committed to completing review and, where appropriate, reform activity. In view of New South Wales' commitment to national competition policy and its considerable achievements since 1995, the remaining few incomplete matters at the time of reporting are considered of relatively minor importance for the 2003 assessment.

1.2 2003 NCP Assessment

This report to the NCC is submitted in accordance with the Government's reporting obligations in the NCP Agreements.

The report outlines the Government's progress in implementing NCP obligations for the period 31 March 2002 to 31 March 2003 in remaining priority areas identified by the NCC. The report also forecasts legislation review and reform activity to 30 June 2003. Separate arrangements have been agreed to report on the implementation of water reform obligations.

This report should be read in conjunction with the Government's six previous Annual Reports to the NCC covering the calendar years 1996, 1997, 1998, 1999, 2000 and last year's report covering 1 January 2001 to 30 March 2002.

Inquiries about this report may be directed to the Inter-Governmental and Regulatory Reform Branch, The Cabinet Office, telephone (02) 9228 5414.

1.3 Structure of this Report

This report contains separate chapters addressing outstanding NCP obligations (Chapters 2 to 12) in priority areas identified by the NCC. These priority areas are:

- Energy;
- Primary Industries;
- Transport;
- Health and Pharmaceutical Services;
- Legal and other Professions and Occupations;
- Workers Compensation Insurance;
- Retail Trading Arrangements (Liquor licensing);
- Fair Trading and Consumer Protection Legislation;
- Social Regulation (Gambling);
- Planning, Construction and Development Services; and
- Competitive Neutrality

Chapter 13 of the report provides an overview of developments in relation to the structural reform of monopolies.

2. Energy

The energy priority issues identified for the 2003 NCP assessment relate primarily to the further development of the National Electricity Market (NEM). It is noted that a number of NEM policy issues are currently being considered by the NEM Ministers' Forum and the Parer Review under the auspices of COAG. Responses to any reform proposals arising from these reviews will be pursued through COAG.

2.1 Electricity

2.1.1 Derogations from the National Electricity Code

For the 2003 assessment, the NCC has requested confirmation that all New South Wales derogations to the National Electricity Code have expired. As per Chapters 8 and 9 the Derogations (Chapter 8) section of the National Electricity Code, all derogations that are not in the nature of ongoing technical or procedural derogations required under the Code have expired, or are due to expire by 31 December 2004. In the NCC's 2002 Assessment Report, the NCC accepted the need for, and appropriateness of, the derogations, which relate to the implementation of full retail contestability.

One of the derogations due to expire in 2004 relates to metering matters. New South Wales is currently preparing a discussion paper seeking industry views and feedback on how to progress these matters once the relevant derogation ceases.

2.1.2 Electricity Tariff Equalisation Fund

The Electricity Tariff Equalisation Fund is a transitional arrangement that is due to expire in July 2004. Before that time, New South Wales will examine the continued need for such an arrangement in light of retail market developments.

2.1.3 National Transmission Grid Interconnection

New South Wales has been an active advocate of the need for transmission reform in order to improve interconnection of electricity grids. New South Wales has consistently supported greater levels of interconnection as evidenced by its support for the South Australia- New South Wales Interconnector.

New South Wales, as Chair of the NEM Ministers' Forum, is leading work that examines fundamental policy issues associated with the current framework for planning and development of the transmission system.

2.1.4 National Electricity Market Institutional Arrangements

The NCC noted in its 2001 NCP Assessment that the jurisdictions are ultimately responsible for NECA and NEMMCO and that experience suggests there may be some weaknesses to the institutional framework to which these institutions belong.

New South Wales has acknowledged these concerns by, in partnership with other jurisdictions, commissioning the COAG Energy Review. The recommendations of this review will be considered by the Ministerial Council on Energy and COAG in 2003.

NEM Ministers have also agreed, through the NEM Ministers Forum, to formalise their policy oversight role through the development of amendments to the National Electricity Law.

2.2 Gas

New South Wales adopted the draft gas quality standard specifications in the *Gas Supply (General) Regulation 1997* in 2001, and transferred the specifications to the *Gas Supply (Network Safety Management) Regulation 2002* in September 2002.

The new Australian Standard for general purpose natural gas, published on 24 January 2003, is identical to the gas specifications contained in the New South Wales Regulation. It is intended that the New South Wales Regulation will be amended to reference the Australian Standard later this year.

2.3 Petroleum

For the 2003 Assessment, the NCC has sought a report on progress in implementing amendments to the *Petroleum (Submerged Lands) Act 1982* arising out of the national review of legislation governing offshore petroleum development.

As advised to the NCC in 2002, given the need for New South Wales to mirror Commonwealth legislation, the Government will amend the New South Wales Act following the completion of required amendments by the Commonwealth.

Two of the three reforms recommended by the Review were implemented under the Commonwealth's *Petroleum (Submerged Lands) Amendment Act 2002*. The third involves a full rewrite of the Commonwealth *Petroleum (Submerged Lands) Act 1967*. This rewrite is underway and a new bill is expected to be introduced into Commonwealth Parliament in 2003. New South Wales will be monitoring developments closely.

3. Primary Industries

3.1 Agriculture

3.1.1 Grains

The final report of the review of the *Grain Marketing Act 1991* (the Act) was completed in July 1999. The New South Wales Annual Report to the NCC for the year ended December 2000 explained the differences between the review's recommendations and the Government's decision in relation to the reform of regulated marketing of grains in New South Wales following the collapse of the Grains Board in 2000.

In essence, the Government provided for a staged removal of restrictions on the marketing of grains, with the immediate removal of restrictions on the sales of all commodities other than domestic sales of malting barley and export sales of all barley, canola and grain sorghum. The Grains Board will retain vesting powers over these grains and oilseeds until a legislated sunset date of 30 September 2005. The Board will then be wound up and dissolved. The *Grain Marketing Amendment Act 2001*, assented to on 14 December 2001, gave effect to this arrangement.

The above arrangements are supported by a performance agreement for the Grains Board's agent, Grainco Australia, and an independent monitoring regime over Grainco's prices. In the particular circumstances of the Grains Board's insolvency, this presents a firm and appropriate transition plan to achieve reform outcomes by 2005 that are consistent with NCP principles.

As requested by the NCC, New South Wales examined options to bring forward the September 2005 deadline for removal of remaining restrictions. This has been found not to be possible given that the regulation underpinning remaining marketing monopoly rights is the subject of a court-ordered Scheme of Arrangement and binding Deeds of Agreement between Grainco Australia, the Administrator of the Grains Board and the New South Wales Government.

3.1.2 Poultry Meat

The *Poultry Meat Industry Act 1986* was first reviewed in 1999 but did not achieve consensus amongst the review participants. Following the review further work was conducted in 2001 to assess the public benefit of the Act. It was found that the benefits from deregulating negotiating arrangements between poultry growers and processors would be insignificant to consumers. By contrast, the losses to individual growers from deregulation would be substantial.

The New South Wales Government announced in November 2001 that it would not deregulate the poultry meat industry. In October 2002, the *Poultry Meat Industry Amendment (Price Determination) Act 2002* (the Act) was proclaimed, authorising contract growing agreements entered into by poultry meat growers and processors for the purposes of the Act. These agreements are therefore protected from legal challenge under the Commonwealth *Trade Practices Act 1974*.

The retention of regulatory arrangements was based on the need to provide growers with a level of countervailing market power relative to processors. The structure of the contract growing system is such that processors, rather than growers, control the supply of birds and have a high degree of control over the growing process. Growers must nonetheless undertake substantial investment in capital that is highly specialized (has no alternative uses), is non-portable and of which a considerable amount is specific to supplying a particular processor.

These characteristics make it more costly for growers to exit the industry, forming a barrier to achieving a contestable market, and therefore competitive outcomes, in practice.

For example, to recoup their investment, growers are often locked into working for one processor for the life of the investment, which may span the terms of several contract periods. As growers do not own the chickens or have control over many of the inputs in the growing process, they have little ability to negotiate to supply other processors after entering into a contract with one processor. Processors generally have more options to exit both from their relationships with a contract grower and the industry, as they are large corporate entities with significant financial capacity and the ability to source product from a number of growers.

The ACCC has previously recognised that there is a public benefit in improving growers' bargaining positions and that the nature of the poultry meat industry limits the extent of anti-competitive detriment that may normally arise from collective negotiations between a group of growers and a processor. In March 2002, the ACCC issued a draft determination proposing to allow collective negotiations in New South Wales between individual processors and their contracted growers for the purpose of negotiating standard contracts, including the agreement of a common growing fee. The draft authorisation covered all current and future poultry growers contracted to processors for a period of five years.

While the draft authorisation was withdrawn following the New South Wales Government's decision to retain its existing regulation, similar authorisations have been issued by the ACCC in South Australia and Victoria, which have comparable industry structures, on the basis of net public benefit.

The Government considers that the standard growing contracts approved under the draft authorisation would not have operated to result in substantially different outcomes to those under the current New South Wales regulatory arrangements.

The features of the market noted by the ACCC as limiting anti-competitive detriment under collective negotiation arrangements exist under the regulatory arrangements in New South Wales. For example, the application for authorisation sought to approve processor–specific collective bargaining groups, which would, in a contestable market, have lessened the scope for growers to switch from one processor to another. This was considered by the ACCC to have limited impact as the nature of the contract growing system limits the scope for competition between growers to service different processors in any event. The ACCC has also noted that the high level of competition in downstream retail markets is likely to limit any price impact, particularly as the growing fee only comprises a small component of the retail price.

The current regulatory arrangements in New South Wales do not result in the setting of a single statewide growing fee and do not preclude fee variations. The base rates set by

the Poultry Meat Industry Committee (PMIC) in January 2003 listed nine different prices, reflecting the probable number of growing fee rates that would have existed under the proposed authorisation. The PMIC has also introduced increased levels of negotiation between processors and their respective growers.

The PMIC is currently introducing various new initiatives to ensure that any efficiency costs arising from its role in authorising agreements between poultry meat growers and processors are minimised. For example, in relation to grower fees, the PMIC takes into account variations in production costs such as differences between regions, differences between tunnel and conventionally ventilated sheds and variations in housing.

A safeguard within the legislation with respect to efficiency costs is that if processors are dissatisfied with their negotiated agreements they are free to invest in their own growing facilities. At this time relatively few processors have pursued this option.

The most significant stated 'advantage' of authorised collective bargaining over New South Wales' existing arrangements is that of assisting transition to de-regulation. It is not clear however why collective negotiations, if they had been authorised in New South Wales, would not be necessary after five years. The ACCC's January 2003 decision to renew its initial five-year authorisation for collective negotiation arrangements in South Australia for a further five years indicates that the structure of the poultry industry has not significantly changed and that there is a net public benefit in retaining the arrangements. It is noted that the South Australian Government has introduced legislation to re-regulate the industry (the Chicken Meat Industry Bill 2002).

The retention of regulations in New South Wales will further facilitate orderly industry adjustment over the period to June 2004, when grower contracts are scheduled to expire and a process of re-structuring takes place. This process presents a major adjustment challenge to the New South Wales industry.

3.1.3 Rice

The 1995 review of the Rice Marketing Board, which is established under the *Marketing of Primary Products Act 1983*, found that current rice marketing arrangements provide a substantial net public benefit, with the market price premiums from rice exports considerably outweighing some efficiency costs to the domestic market.

New South Wales nonetheless gave in-principle support in April 1999 to the possible introduction of a Commonwealth single desk for rice exports and consequent deregulation of state-based rice marketing arrangements, as a means to reduce the small domestic level costs. This was subject to the following conditions:

- the model for implementation being feasible and practical, and not putting export premiums at risk;
- industry views being taken into account on the need for a transition period prior to the commencement of the arrangements and the length of any initial exclusive licence period for the Ricegrowers' Cooperative Limited; and
- all other States being in agreement with the model.

Since that time, the Commonwealth has consulted other States and Territories on the proposal for introduction of national single desk rice export arrangements. New South Wales has written to the Commonwealth seeking advice on the outcome of the consultation and the Commonwealth's proposed position. New South Wales believes that deregulation of domestic rice marketing arrangements should not take place without the concurrent introduction of viable and jointly agreed alternative arrangements.

3.1.4 Agricultural and Veterinary Chemicals

The *Agricultural & Veterinary Chemicals (New South Wales) Act 1994* (the Act) gives effect in New South Wales to Commonwealth legislation establishing a national registration scheme for agricultural and veterinary chemicals. The Act was part of a national review and outstanding NCP issues are being addressed on a national basis rather than by any jurisdiction individually in accordance with the strategy for review and reform agreed by governments in 2000. New South Wales is fulfilling its obligations as a party to this national approach, as outlined below

Licensing of agricultural chemical manufacturers The working group of signatories to the national registration scheme has completed a review of manufacturer licensing provisions. The review report is to be submitted to the Primary Industries Standing Committee, which reports to the Primary Industries Ministerial Council, for endorsement shortly.

Regulation of low-risk chemicals Governments have developed a framework for the assessment and registration of low-risk chemicals. The Agricultural and Veterinary Chemicals Legislation Amendment Bill 2002 (Cth) contains proposed amendments to implement this framework. The Bill was passed in the House of Representatives in February 2003 and is currently in the Senate.

Contestability of chemical assessment services The signatories working group has developed proposals for increasing the contestability of chemical assessment services. In September 2002 the Primary Industries Standing Committee endorsed the National Registration Authority pursuing these proposals administratively in consultation with Agriculture Fisheries Forestry Australia.

Third party access to chemical assessment data The Federal Government is currently preparing amendments to the Agvet Code to put in place a policy framework for data protection, after a period of extensive consultation with industry stakeholders.

The NCC has also requested the public interest case for the decision to retain, as part of the registration process, a requirement that the supplier's claim to a product's efficacy be evaluated in respect of 'appropriateness', as well as 'truthfulness'. This decision, as detailed in the intergovernmental response to the NCP report, was taken by governments based on an evaluation of the risks to public health, risks to occupational health and safety, and adverse impacts on the environment.

3.1.5 Farm Debt Mediation

The *Farm Debt Mediation Act 1994* prohibits lenders from enforcing their contractual rights to recover farm debt before offering the farmer access to a statutory mediation process.

The review of the Act was public and comprised representatives of the New South Wales Farmers' Association, the Australian Bankers' Association, the New England Rural Counseling Service, the New South Wales Rural Assistance Authority, New South Wales Agriculture and The Cabinet Office. It was completed in December 2000.

The review found that the objective of the scheme was to address the potential for the rural credit market to fail to deliver efficient and equitable resolution of farm debt disputes. Specifically, "the inherent inflexibility of courts and their 'all or nothing' resolutions has the strong potential to lead to inefficient outcomes". It also found that the "imbalance of power between farmers and creditors impedes participation in, and the effectiveness of, both voluntary dispute resolution measures and litigation."

The review recommended the retention of mandatory requirements for mediation on farm debt. An assessment of the costs and benefits of mandatory mediation resulted in a net benefit to the community as the process was more cost effective for both parties than alternative dispute resolution options. Submissions to the review from both the rural and finance sectors endorsed this view. A study of alternative schemes operating in other states showed much lower utilisation compared with New South Wales, illustrating the lack of effectiveness of voluntary schemes in this area.

The review also recommended the introduction of provisions to strengthen the legislation, including administrative tribunal review of certain decisions of the New South Wales Rural Assistance Authority, which provides for increased accountability.

The Government endorsed the review's recommendations in November 2001. The *Farm Debt Mediation Amendment Act 2002* was passed by the New South Wales Parliament in October 2002, implementing review recommendations.

3.1.6 Stock Medicines

The NCC has requested a report on progress with review and reform of advertising restrictions contained in the *Stock Medicines Act 1989*.

The Government is currently considering a proposal to amalgamate chemical residues legislation including the *Stock Medicines Act 1989*. The proposed revised legislation would contain no provision for advertising restrictions and the effect of this new legislation would be to remove the current advertising restrictions in the Act. It is anticipated that amendments will be introduced in 2003.

3.1.7 Food Regulation

The Government introduced the Food Bill 2002 (the Bill) into the New South Wales Parliament on 17 September 2002. The Bill will be re-introduced when Parliament resumes in 2003. The Bill contains all core provisions of the Model Food Bill, which relate primarily to food handling offences and the application in New South Wales of the Food Standards Code.

The Food Bill also sets out provisions allowing the taking and analysis of food samples to ensure that food for sale is safe and suitable for human consumption. To this end, laboratories, analysts and food safety auditors may be approved for the purposes of carrying out analyses. A non-approved person will not be prohibited from carrying out those activities however their results will not be recognised for the purposes of the proposed Act.

The objective of these provisions is to ensure that high standards of food safety are maintained in New South Wales. The Government considers that there is a strong public interest in overseeing the competence and integrity of persons carrying out analyses for the purposes of the legislation. The Bill provides for recourse to the Administrative Decisions Tribunal for review of decisions made in relation to an application or conditions for an approval**.**

The NCC has also requested further information on retained restrictions in the *Dairy Industry Act 1979* and the *Meat Industry Act 1978*. The Dairy Industry Act was repealed in 2000 in conjunction with deregulation of the industry. The licensing and inspection provisions relating to food safety under the two Acts were replaced by the *Food Production (Dairy Food Safety Scheme) Regulation 1999* and the *Food Production (Meat Food Safety Scheme) Regulation 2000*. Both schemes were developed by SafeFood Production New South Wales under the *Food Production (Safety) Act 1998* on the basis of scientific assessments of food safety risks in each industry.

A statutory review of the *Food Production (Safety) Act 1998* was completed by the New South Wales Council on the Cost and Quality of Government in November 2002, with findings published in December 2002. The review found the dairy and meat food safety schemes to be effective and New South Wales ahead of other States and Territories in developing and implementing preventative food safety regulation in the primary production and seafood industries.

3.1.8 Veterinary Surgeons

The review of the *Veterinary Surgeons Act 1986* was completed in 1998. The review determined that the regulation of veterinary practitioners through the current system of licensing is in the public interest as it ensures that only trained persons are able to undertake surgical and other high risk health care procedures on animals and consumers are well informed as to the competencies of animal health service providers.

The regulations are consistent in this respect with animal welfare and public health obligations imposed by other legislation such as the *Poisons and Therapeutic Goods Act 1966, Prevention of Cruelty to Animals Act 1979* and the *Agricultural and Veterinary Chemicals Code Act 1994*. The review also concluded that a licensing system is necessary to meet overseas trade certification quality requirements.

Reforms recommended by the review include loosening restrictions on entry to the profession and ownership of veterinary hospitals, and opening up less serious animal treatment procedures to non-vets.

The New South Wales Cabinet approved a response to the review in September 2002, including the drafting of legislative amendments. A draft bill is being prepared and legislation to give effect to the reforms is expected to be introduced when Parliament resumes in 2003.

3.2 Fisheries

The *Fisheries Management Act 1994* (the Act) sets out a number of measures designed to ensure the sustainable management of fishery resources, such as commercial fishing and fishing boat licences, catch limits, tradeable rights to shares in the output of a fishery and aquaculture leases. The primary objectives of regulation are to conserve fish stocks and to preserve the habitat and biodiversity associated with those stocks.

The NCP review of the Act (released April 2002) found net benefits to the community from these measures. In comparing forms of control over fishing in Australian and other jurisdictions overseas, the review concluded that alternative (including non-legislative) approaches to sustainable fisheries management would be unlikely to work as well as the mechanisms currently in place. The terms of the Act were therefore considered appropriate.

In 2001, the Government implemented the review's recommendation that the objectives of the Act be expanded to explicitly include the provision of social and economic benefits to the wider community (*Fisheries Management Amendment Act 2001*).

The review also identified particular measures which appear to restrict competition and about which concerns were raised that costs may not be outweighed by benefits, namely fish receiver registration fees and licensing for recreational charter fishing boats. The review did not reach firm conclusions on the nature and extent of these measures' benefits and costs and New South Wales is examining these matters further in the context of broader fisheries management issues.

Fish receiver registration fees apply to any person or business buying fish from a commercial fisher. The review considered that the registration fees may be anti-competitive because they increase fish wholesalers' costs relative to costs incurred by wholesalers of other foods. However, this form of registration also provides two benefits: a means to monitor illegal fish sales and an offset to the costs of the necessary auditing of fish receivers. To ensure that the fees are set at the appropriate level, they are being reviewed as part of a cost recovery framework for commercial fishing.

A cap on the number of licences for recreational charter fishing boats limits fishing by these boats and ensures sustainability by controlling how much fish can be taken. Part-time operators have been allocated non-transferable licences to prevent the increase of fishing activity resulting from transfer of licences to full-time operators. The Government will examine these issues in the context of long-term management arrangements for the charter boat industry in consultation with the industry.

3.3 Mining

The NCP reviews of the *Coal Mines Regulation Act 1982* (CMRA) and the *Mines Inspection Act 1901* (MIA) were undertaken as part of a wide-ranging review of all legislation governing mine health and safety since the Gretley mine disaster in November 1996, in which four people were killed. A Judicial Inquiry into the Gretley incident made a number of recommendations to improve safety which were implemented in amendments to the CMRA and MIA in 1998 and CMRA Regulation in 1999.

The review of mine safety has observed that despite significant improvements to mine safety in recent years, mines still experience serious injuries and fatalities. Key conclusions of the review have been that the regulatory approach to mine safety should place an onus on mine operators to develop occupational health and safety plans that are tailored to manage the health and safety requirements of their own operations, and that there should be consistency between mine safety legislation and the more general *Occupational Health and Safety Act 2000* (OHS Act) covering all employers.

The *Coal Mine Health and Safety Act 2002* was developed in response to these findings. The Act, passed by Parliament in December 2002, repealed the *Coal Mines Regulation Act* and complements the OHS Act.

The Act sets out requirements for strategic safety planning at each coal mine, the responsibility of mine operators to develop health and safety management systems that address the particular requirements of their mines, investigatory and inspection powers, and penalties and legal proceedings consistent with the OHS Act. It establishes a Coal Competence Board to set competency standards for defined worker positions, with flexible powers to respond to the changing health and safety requirements of the industry.

The reforms were developed in conjunction with extensive consultations between the Government, Mine Safety Council and the industry, and considered competition policy principles, including those raised in the 2000 NCP issues paper for the *Coal Mines Regulation Act*. The legislation is fundamentally based on protecting the safety of workers and assessments of the particular risks arising from coal mining.

The Government released a position paper on reform of legislation governing safety in metalliferous mines and quarries in October 2002. Reforms in the position paper took into account competition issues raised in the review of the *Mines Inspection Act 1901* (2001). It proposes reforms similar to those for coal mines, aiming to ensure that the particular hazards associated with the operation of metalliferous mines and quarries are appropriately managed at each site.

In December 2002, the Government introduced into Parliament a draft Mine Health and Safety Bill, based on the position paper. This draft Bill proposes to repeal and replace the *Mines Inspection Act 1901*. Following further consultation with safety experts, industry and employee representatives, it is intended that the new legislation will be introduced into Parliament in 2003.

Legislative amendments consequent on the enactment of the *Coal Mine Health and Safety Act 2002* were made to the *Mining Act 1992*. Key competition issues in the *Mining Act* relate to the licensing of mineral exploration and extraction activities, which were reviewed as part of the New South Wales Government's licence reduction program.

4. Transport

4.1 Taxis and Hire Cars

New South Wales has previously reported in detail on the review of taxi regulations (2002 Annual Report pages 6 and 7; Annual Report for the year ended December 2000 pages 117 and 118).

The review was undertaken by the Independent Pricing and Regulatory Tribunal (IPART) during 1999. As previously indicated the New South Wales Government supports IPART's recommendation that taxi licences be increased by five per cent each year. However, the slow uptake of new licences reported last year continues.

IPART considered that another review of the area would be warranted in 2005 following the staged release of licences over the preceding five year period, to assess the need to retain restrictions on the number of taxi licences. Given the difficulties experienced to date, consideration is being given to bringing forward a further review to examine supply and demand issues and other matters impacting upon the regulation and release of taxi licences.

4.2 Tow Trucks

The *Tow Truck Industry Act 1998* was introduced by the Government following a review of the tow truck industry after a truck driver was fatally shot in February 1998.

The review, conducted by Mr Peter Anderson, confirmed the existence of a number of serious problems within the industry, including an escalation in violence between competing tow truck operators and drivers, the use of pressure tactics on consumers involved in accidents and dangerous and corrupt practices within the industry. The review recommended a number of reforms to the policy, enforcement and organisational elements of tow truck regulation, including the establishment of a 'Job Allocation Scheme' (JAS) to distribute smash towing jobs.

A six-month trial of the JAS commenced on 20 January 2003 and an evaluation program will be conducted throughout the trial to determine its effectiveness. The Government confirms its previous advice that a review of the *Tow Truck Industry Act 1998* will commence six months after the JAS trial (2002 Annual Report page 8). The review of the Act will include within its terms of reference an examination of the impact of clause 69(2) of the *Tow Truck Industry Regulation 1999* on interstate operators.

4.3 Dangerous Goods

For the 2003 Assessment, the NCC has requested a report on progress in implementing the National Standard for the storage and handling of dangerous goods in the workplace. New South Wales reported in its 2002 report to the NCC that the Government finalised the implementation of the new *Occupational Health and Safety Act 2000* and its associated regulation in 2001. Both of these pieces of legislation impose duties to ensure the health, safety and welfare at work of employees, using a risk management approach similar to that required by the National Standard.

On 1 October 2002, the Government approved the release of an Issues Paper containing proposals for an overhaul of the *Dangerous Goods Act 1975* to apply the National Standard and aspects of the National Standard for the Control of Major Hazard Facilities. Submissions have been reviewed following a targeted consultation process and a bill to amend the Act is anticipated to be introduced in the Budget 2003 session of Parliament.

4.4 Marine Safety

The Government advised the NCC in its 2002 report that an NCP review of the *Marine Safety Act 1998* will be conducted twelve months after the Act has been in full operation.

The Act remains substantially uncommenced as a related regulation on marine safety, which is to be introduced in conjunction with the commencement of the Act, has not been finalised. The regulation is awaiting advice from the Commonwealth on the outcomes of the current review of the Uniform Shipping Laws Code, which provides the basis for common national safety standards for commercial vessels.

The Government intends to commence certain other provisions in the Act relating to recreational vessels in advance of finalisation of the regulations. A statutory review of the Act is due to commence on 28 November 2003. The Government will consider competition policy issues during this statutory review process, a report of which will be tabled in both Houses of Parliament by 28 November 2004, as required by the Act.

4.5 Ports and Shipping

The *Ports Corporatisation and Waterways Management Act 1995* (PCWMA/ the Act) governs the terms and conditions under which the major ports of New South Wales operate. The Act also establishes the Waterways Authority to exercise marine safety and waterways management functions under the Minister.

The NCP review of the Act, undertaken by the Centre for International Economics, was submitted to the Minister for Transport in December 2001. The review concluded that "The way that New South Wales ports operate under the PCWMA generates net benefits for the community from an NCP perspective. … In practice, each of the port corporations provide(s) core activities of safety and real estate management and allow(s) the more contestable waterfront services, such as stevedoring, to be supplied privately following competitive tendering". The Government does not propose to alter the regulatory framework at this time.

5. Health and Pharmaceutical Services

5.1 Nurses

The review of the *Nurses Act 1991* (October 2001) recommended that nurses and midwives continue to be regulated by the current system of restricting the use of titles to registered members of the profession, but that midwife practice requirements be relaxed.

The Government has concluded consultation with stakeholders on a draft bill incorporating review recommendations and expects to introduce the amending bill when Parliament resumes in 2003.

5.2 Podiatrists

The *Podiatrists Act 1989* (the Act) restricts the use of titles and descriptions to registered podiatrists and the practice of podiatry to registered podiatrists. The main objectives of the Act are to assist in maintaining standards of care and to protect the public by ensuring that suitable persons provide podiatry services.

In practice there is competition in entry to the industry as podiatrists are covered by Mutual Recognition Acts, which allow those registered interstate or in New Zealand to apply to practice in New South Wales. A number of other practitioners may also provide foot care services, such as chiropractors and osteopaths, physiotherapists, exercise physiologists and medical practitioners. Medical practitioners may practice podiatry without applying to the Board, and nurses and others may provide basic foot care as a part of their employment in a hospital, nursing home or community health centre. The podiatry industry is relatively small, with around 650 registered podiatrists and has a minor direct impact on economic activity in New South Wales.

The major proposals for reform in the review of the Act are to replace current whole-of-practice restrictions on podiatry with three core practice requirements, which would allow podiatrists, medical practitioners and nurses to carry out foot treatments on a similar basis, and to remove technical contraventions of the Act where other regulated practitioners such as physiotherapists administer foot treatment within their legitimate scope of practice. It is anticipated that the Government will consider the review recommendations and make any amendments to the Act in 2003.

5.3 Pharmacy

The review of the Pharmacy Act was conducted nationally through COAG in 1999. The review's recommendations included retention of pharmacist ownership of pharmacies; lifting of restrictions on the number of pharmacies that a pharmacist can own; enabling friendly societies that own pharmacies to be treated in the same way as other pharmacies; and replacing educational requirements for registration with competency based requirements.

New South Wales was a party to the inter-jurisdictional working group that considered and prepared a response to the recommendations of the review, which has been further considered by COAG. COAG's response to the review was referred to States and Territories in August 2002. The New South Wales Department of Health has undertaken consultations with stakeholders since that date and the final proposals for legislative change are currently subject to Cabinet consideration (delayed by the New South Wales pre-election caretaker conventions).

5.4 Dentists and Optometrists

The *Dental Practice Act 2001* (which replaces the *Dentists Act 1989*) contains restrictions on the employment of dentists by non dentists. The objective is to protect the health and safety of patients and ensure the accountability of service providers. The Act contains a number of exemptions to this rule, one of which is where the employing body has been approved by the Dental Board after meeting public interest requirements.

The NCC has requested information on how the Dental Board has exercised its approval powers, with the aim of ascertaining whether the exemption power is being used to protect incumbents.

The provisions within the new Act allowing non-dentists to apply for permission to employ dentists (and that also allow registered health funds to employ dentists without the permission of the Dental Board) set out a clear intent to promote increased competition in the employment of dentists. This needs to be within a regulatory framework that ensures that standards of practice are maintained and the health and safety of patients is protected.

The Government indicated in its 2002 report to the NCC that the benefits of removing the employment restriction altogether would not justify the costs of establishing and enforcing an alternative regulatory scheme based on penalties. The Act directs the Dental Board to exclude the interests of the profession when assessing the public interest. The current provisions effectively and efficiently promote competition whilst ensuring that the health and safety of patients are protected.

At the time of completing the review of the *Dentists Act 1989* (March 2001), the Dental Board had granted employment exemptions to enable seven separate organisations to employ dentists in sixteen dental clinics. It is noted that the restrictive effect of the provisions was substantially lessened following the 1996 Court of Appeal decision in NIB Health Services Pty Ltd v Dental Board. Since this date the only applicants for new approvals have been private health insurance companies, which have all received decisions in their favour. This record would appear to indicate that there have been no adverse impacts on these or other potential employers.

The NCC has also sought information on how the Government has exercised powers to grant exemptions from restrictions on ownership of optometry services under the *Optometrists Act 1930*. It is noted that while in fact the *Optometrists Act 1930* has been repealed by the new *Optometrists Act 2002*, provisions under the old Act relating to exemptions were rendered inoperative following the commencement of the *Optometrists and Optical Dispensers (Amendment) Act 1969* (commenced 28 November 1969). There has been no power after that date for the Government to exempt a person from ownership restrictions.

The *Optometrists Act 2002* contains general restrictions on the ownership of optometry practices, but allows the Minister for Health to prescribe persons or classes of persons other than optometrists as being entitled to operate an optometry business. New South Wales confirms that these exemption powers are not intended to be used to protect incumbent business owners.

5.5 Drugs, Poisons and Controlled Substances

The substantive recommendations of the review of the drugs, poisons and controlled substances legislation requiring legislative amendment have been implemented in New South Wales by the *Poisons and Therapeutic Goods Regulation 2002*. The Regulation commenced on 1 September 2002.

6. Legal and Other Professional and Occupational Licensing

6.1 Legal Profession

6.1.1 NCP review recommendations

The final report of the NCP review of the *Legal Profession Act 1987* was completed in 1998. The Government has made substantial progress with implementation of reforms arising from the review as well as completing other major competition based reforms to the regulation of the legal profession, as outlined in the New South Wales report to the NCC for the year ending December 2000 (refer to pages 144 and 145).

In 2002 the Government introduced the *Legal Profession Amendment (National Competition Policy Review) Act 2002* (commenced 4 October 2002), which:

- removed the requirement for corresponding laws to be in place before lawyers from other states were permitted to practise in New South Wales. It is noted that no other jurisdiction apart from New South Wales has removed the need for corresponding laws;

- reforms the structure of practising certificate fees (commencing July 2004). Practising fees are to be set on a cost recovery basis and will no longer include a charge for compulsory membership of a professional association. The activities in respect of which a fee may be charged may also be audited;

- allows specialist accreditation schemes to be conducted by persons or bodies other than the professional associations;

- allows solicitors to practise in multi-disciplinary partnerships, despite anything to the contrary in Law Society rules; and

- requires professional disciplinary action taken against lawyers to be publicised and the keeping of a public register on disciplinary action.

The NCP review made some recommendations concerning the arrangements for dealing with complaints and disciplining lawyers, although the report concluded that the scheme served the public interest overall.

The *Legal Profession Amendment (Complaints and Discipline) Act 2000* (commenced 14 July 2000) clarified the ambit of the powers of the Legal Services Commissioner (LSC) to deal with consumer disputes. The *Legal Profession Amendment (Disciplinary Provisions) Act 2001* gave the LSC additional powers to monitor and review the complaints investigation and handling policies of the Law Society Council and Bar Council, and to monitor generally the exercise of regulatory functions by both Councils. The question of the proper limits of the jurisdiction of the Administrative Decisions Tribunal to make compensation orders has also been considered by the Law Reform Commission in its report *Complaints Against Lawyers: An Interim Report* (April 2001). Further improvements

to complaint resolution and discipline procedures are expected to be introduced by the Government when Parliament resumes in 2003.

The remaining issues raised by the NCP review are largely being examined under the project to develop model uniform laws for regulation of the legal profession, overseen by the Standing Committee of Attorneys General (SCAG). New South Wales is leading work in this process. The drafting of model laws by the Parliamentary Counsel's Committee is well underway in the areas of admissions to practise, the reservation of legal work, costs and costs disclosure and complaints and discipline. The New South Wales Attorney General has advised SCAG that, subject to support for proposals for uniform provisions for trust accounts, terms of professional indemnity insurance and fidelity fund coverage, model provisions are expected to be ready shortly.

6.1.2 Advertising of Personal Injury Services

The New South Wales restrictions on advertising personal injury services were introduced in response to the problem of reduced access to affordable public liability insurance.

The New South Wales Government is moving to strengthen these restrictions as a number of practitioners have sought to circumvent these restrictions.

While the causes of this are complex (including the size of compensation claims, the pricing and investment practices of insurance companies including under-pricing in the past, lower investment returns for insurers and rising reinsurance costs) one of the factors that led to increasing premiums appears to have been the sharp rise in the number of public liability claims.

Evidence of the growth in such claims was provided in last year's report to the NCC. Further evidence has since been presented to the national Ministerial meetings on public liability insurance and to a joint sitting of the New South Wales Parliament. The cost of such claims is also a significant issue. At the meeting of Ministers on 15 November 2002, PriceWaterhouseCoopers Actuarial advised that claims up to $100,000 comprised approximately 45% of the cost of claims overall.

At the joint sitting of the New South Wales Parliament on 18 September 2002, Trowbridge Consulting noted the disproportionate impact that claims in the $20,000 to $100,000 bracket had on the costs flowing from public liability claims. Trowbridge also noted that there had been a significant increase in public liability litigation in New South Wales when compared with other jurisdictions.

The New South Wales Government considers that one of the reasons for the growth in small claims is that advertising by some lawyers encourages people to make personal injury claims. Some of this advertising may have encouraged people to make a claim, regardless of the seriousness of their injury, their genuine need for compensation or the real merits of their claim.

Given limits to the capacity of the justice system and the growth in the number of claims, advertising restrictions may also regulate demand for litigation relative to that for other less costly forms of settling disputes or resolving grievances. This will assist to limit the negative externalities arising from increasing numbers of filed claims, in particular non-

meritorious claims, which can contribute to log jams in court administration and impose efficiency costs that are ultimately borne by the wider community.

Any restrictive impact of the advertising rules in New South Wales is outweighed by the potential for a future positive impact on levels of litigiousness in the personal injury area. On balance, the public interest is best served by imposing reasonable restrictions on this type of advertising.

The Prime Minister of Australia also described the original removal of advertising restrictions on lawyers as a "disastrous mistake" to the Commonwealth Parliament on 14 March 2002. The Prime Minister made this statement in the context of answering a question regarding the public liability crisis. The Prime Minister stated that the removal of restrictions has contributed to the "…growth of a litigious mentality in our society". He also noted more generally in relation to restrictions on litigation that "[w]e cannot have it both ways, and society has got to decide where the balance is struck".

If pressure on insurance premiums and rates of litigation are alleviated by the national process of reform presently underway, including tort law reforms at New South Wales level, the need for these advertising restrictions can then be reviewed. The New South Wales Government considers, however, that the restrictions imposed are critical at this time in the broader interest of the New South Wales community.

6.1.3 Legal Professional Indemnity Insurance

For the 2003 assessment, the NCC has raised concerns about the 'monopoly provision of professional indemnity insurance' in States and the Northern Territory. It should be noted that New South Wales legislation does not prevent multiple provision of legal professional indemnity insurance for legal practitioners. It does require that a legal practitioner have an approved insurance policy, that is, where the insurer and the terms of the policy are approved by the Attorney General by order given to the Law Society or Bar Council.

In recent years, insurance for solicitors has been provided by an agency arrangement between LawCover (a subsidiary of the Law Society) and a commercial insurer. This means commercial insurers have been able to compete (as much as competition exists in the current 'hard' insurance market) for the provision of professional indemnity insurance for New South Wales solicitors. Further, under the legislation a number of insurers could be approved to provide insurance to solicitors, as is the case for barristers.

The New South Wales 2002 annual report to the NCC noted that the Government had proposed to establish a new mutual fund to cover all solicitors, excluding those who have exemptions. The proposed mutual fund was not put in place last year, largely because of advice received from APRA that the entity that manages such a scheme would require a licence under the *Insurance Act 1973* (Cth) and would be required to meet its capital adequacy requirements.

In addition, the possibility of a national, or a partly national, insurance scheme has been raised, and is being explored, by the Standing Committee of Attorneys General as part of the National Legal Profession Model Laws Project. The future arrangements for solicitors' professional indemnity insurance in New South Wales will therefore be considered further in this context.

The NCC has also sought advice as to whether recent civil liability reforms in New South Wales will have an impact on legal professional liability insurance. It is not anticipated that there will by any significant impact. Many of the reforms, such as those relating to personal injury damages and recreational activities, are not relevant to legal professional indemnity insurance. Two areas of the civil liability reforms which may have an impact are the provisions relating to the standard of care for professionals and those relating to proportionate liability.

The provisions relating to proportionate liability have not yet commenced, as further consideration is being given to their interaction with the Trade Practices Act (Cth). The New South Wales Government has requested the Commonwealth to introduce similar reforms to damages under the Trade Practices Act as soon as possible.

6.2 Wool, Hide and Skin Dealers

The *Wool, Hide and Skin Dealers Act 1935* (the Act) requires persons who carry on a business of buying or selling wool, hides and skins to be licensed and keep certain records. The Act also gives police powers to enter and search premises used for the purpose of storing wool, hides and skins.

The aim of regulatory arrangements is to reduce the incidence of stock theft. Wool, hides and skins, along with meat, are major products that can be derived from agricultural crime and make stock theft attractive.

A 1998 NCP Issues Paper suggested that although the impact of existing regulations on competition did not appear significant, the Act might be repealed. The Government did not support this after considering the findings of a Pastoral and Agricultural Crime Working Party, established in 2000 to advise on issues of crime particular to primary producers. The Working Party reported in October 2000.

The Working Party found, contrary to assumptions in the NCP issues paper, that stock stealing continues to be a major crime in New South Wales and has in fact increased in recent years due to the rise in the value of cattle and exhaustion of wool stockpiles. It confirmed that wool, hides and skins are high risk commodities which lack identifiers and can easily be stolen and on-sold. The Working Party recommended that a licensing regime be retained by Government as the most effective means of tracking and investigating trade and that the regime be modified on the basis of pawnbroker licensing provisions given similarities in risk relating to trade in stolen property.

The final NCP review of the Act was completed in June 2002 following consultations with industry and agencies. The review found the costs of licensing and record keeping requirements insignificant to industry parties and clearly outweighed by their effective use as a deterrent to crime as well as secondary benefits in disease control. The requirements have a small impact on a small number of persons - there are less than 150 persons operating as wool, hide and skin dealers.

The report of the review supported the recommendations of the Working Party. To minimise the impact of the licensing system on competition and improve administrative efficiency, it also recommended that the primary application of the Act be narrowed to cover sheep and cattle only, the nominal licence fee ($10) be removed and that licences be renewed on a three year, rather than an annual, basis. Following consultation with

industry on a draft bill, it is anticipated that amending legislation will be introduced in the first half of 2003.

6.3 Employment Agents

The *Employment Agents Act 1996* and its associated regulation were repealed under the *Fair Trading Amendment (Employment Placement Services) Act 2002*, which was passed by Parliament on 30 October 2002 and commenced on 17 February 2003.

6.4 Conveyancers

The review of the *Conveyancers Licensing Act 1995* was completed in October 2001. The review found that the costs associated with restrictions under the Act's occupational licensing model were outweighed by the public benefits, mainly relating to the protection of consumer interests. The review recommended that the current licensing regime and boundaries of conveyancing work be retained as the best regulatory option to achieve the objectives of the Act.

The review also made recommendations to improve the operation of regulations, including streamlining disciplinary arrangements and reducing the regulatory compliance burden for conveyancers.

The Government accepted the review's recommendations in May 2002. Following public consultation on an exposure bill, the Government introduced the *Conveyancers Licensing Bill 2002* into Parliament on 11 December 2002. The Bill will be re-introduced following the proroguing of Parliament in the Budget session of 2003.

6.5 Boxing and Wrestling

The primary objectives of the *Boxing and Wrestling Control Act 1986* (the Act) are to promote safety and to ensure integrity. The need to promote safety in combative contact sports is fundamental. The need to ensure integrity derives from the scope for corruption.

The Act sets the requirements and conditions for events, competitors, and industry participants. It establishes the Boxing Authority of New South Wales to administer legislation regarding professional boxing and kickboxing events, and to regulate wrestling. The Act also stipulates a fit and proper person test, training requirements for industry participants, costs of registration, gender and age restrictions, and a requirement to demonstrate medical fitness. The Act also establishes a permit system for amateur fights, administered by the Minister.

The professional boxing and kickboxing industry is relatively small and has a minor direct impact on economic activity in New South Wales. The industry includes approximately 300 professional contestants and 200 industry participants. There are no significant anti-competitive economic issues arising from the operation of the industry.

The regulatory arrangements are designed primarily to ensure the health and safety of participants and the competent supervision of fights. Major requirements include compulsory medical checks and adherence to the rules of the sport. The New South Wales Government is mindful of the health and safety concerns of the public regarding

these sports. These concerns are reinforced by the Australian Medical Association which recommends that boxing be prohibited under the age of 18, and supports New South Wales' restriction on female boxing due to concerns over brain and other injury.

The New South Wales Government considers that there is inherent and broad public benefit in regulating participation in dangerous combat sports, even where medical opinion is divided. Similarly, the Act requires a person to be 'fit and proper' to participate in the industry. This restriction addresses corruption issues. Accordingly, the Government does not propose to alter the regulatory framework at this time.

6.6 Entertainment Industry

The primary objective of the *Entertainment Industry Act 1989* (the Act) is to protect performers against unscrupulous agents. The Act requires that people who represent performers for financial reward be 'fit and proper' persons and have knowledge of, or experience in, the entertainment industry and sets a limit on fees.

These measures do not impose high costs on industry participants and there are no significant anti-competitive impacts. There are clear public benefits arising from competent provision of services and the reduction in scope for exploitation and financial loss, particularly in relation to child performers and those starting out in the industry.

A significant characteristic of the industry is the information asymmetry that exists between casual participants in the entertainment industry and agents. The industry is dynamic, changes rapidly to meet changing consumer demands and is inherently innovative. The pattern of employment for the majority of performers is typified by a series of short-term engagements, with performers' incomes varying greatly and reflecting relative shifts in the status range of industry participants.

The nature of the industry and particularly the volatile nature of employment for performers put the consumers of agents' services in a relatively vulnerable position. The regulations provide measures to address the information asymmetry and imbalance in power. The Act does not prevent performers from operating without a representative.

The Act does not require the licensing of entertainment industry employers, who are regulated under existing industrial relations regulation, reinforcing the main objective to protect casual or freelance performers.

The fee limit represents a maximum amount (in the case of most engagements, 10 percent) that entertainment industry agents may demand upon the engagement of a performer. This protects entertainers who newly engage representatives. Fees may be negotiated at less than this level and managers and performers may also agree in writing to fees exceeding the maximum limit.

The review of the Act has identified some issues, such as compliance and enforcement which, although outside the scope of the NCP process, may be improved. The Government will be finalising these issues in 2003.

6.7 Hairdressers

The *Shops and Industries Act 1962* ('the Act', formerly known as the Factories, Shops and Industries Act 1962) regulates the hairdressing trade in New South Wales. The Act

requires hairdressers to hold a licence. The effect of the licensing system is recognition of competency standards, obtained through appropriate trade certificates in hairdressing.

There are six categories of licence, which reflect the competencies gained. Industry representations indicate that the licensing system does not presently impose onerous standards or any significant costs. Consumer representations have indicated that consumers are better able to distinguish between hairdressers on the basis of licence category than by direct assessment of industry training and qualifications.

The Government is considering whether to retain the current system. It is noted that in the absence of a licensing system, there may be a need to ensure competency standards given the particular risks to health and safety that arise from substandard work. It is anticipated that any legislative amendments will be made in 2003.

Given the strong consumer protection focus of the licensing system, there is value in considering amendments in the context of broader changes to the regulation of services. For example, the review of the *Fair Trading Act 1987* (New South Wales) recommended that relevant provisions of the *Trade Practices Act 1974* (Cth) be imported into State legislation to provide more comprehensive consumer protection in relation to services, not just goods.

6.8 Commercial Agents and Private Inquiry Agents

The *Commercial Agents and Private Inquiry Agents Act 1963* (the Act) requires debt collectors and private inquiry agents to hold a licence and stipulates certain conduct requirements. The objectives of regulation are to protect the safety of the public and promote the accountability of, and maintenance of appropriate standards by, persons who may collect confidential information and have access to private property and large sums of clients' money in the course of their work.

The review of the Act was completed in April 2002 and has recently been updated to take into account new industry statistics and developments.

The review found that the Act provides a net public benefit by reducing costs to clients and reducing the risk of criminal activity or harm to the public. It found that regulatory objectives may only be achieved through a licensing system. The majority of public submissions to the review supported retention of licensing arrangements.

The review however made recommendations to remove restrictions where they could not be justified in the public interest, including the requirement for licensees to be in charge of a business, distinctions between commercial agent and private inquiry agent licences, and certain compliance requirements for licence holders. It is anticipated that the Government will consider the final report in May 2003 and introduce any amending legislation later this year.

6.9 Driving Instructors

The *Driving Instructors Act 1992* provides for the licensing of instructors engaged to teach persons to drive motor vehicles for reward. The review of the Act was completed in September 2001 and the final report released in May 2002.

The review found a net public benefit in regulating those entering the driving instruction industry, with benefits to consumers from competent instruction, reduced incidence of corrupt practices and the participation of persons of good character and experience outweighing potential costs. The review considered current entry requirements to be not unnecessarily restrictive and that consumers have adequate choice as to price, availability and levels of service. Learner drivers seeking tuition, for example, may still elect to be taught by a relative or friend rather than using the services of a professional instructor.

The review recommended that the existing 'core' regulatory framework for licensing driving instructors be retained. The review however recommended removal or relaxation of restrictions where they could not be justified in terms of net public benefit, including requirements for post-licence instruction and advertising requirements.

The Government supported the majority of the review's recommendations but departed from two following a further review of their health and safety implications. These relate to relaxing current provisions for licence tenure, which would have resulted in drivers being able to qualify for instruction without a reasonable level of experience and removing a requirement for duplicate driving controls, which was viewed as an unacceptable safety risk.

The *Driving Instructors Amendment Act 2002*, incorporating the approved reforms, received assent on 16 December 2002.

6.10 Pawnbrokers and Second-Hand Dealers

The review of the *Pawnbrokers and Second Hand Dealers Act 1996* was completed in November 2001. The review found that the Act provides a net public benefit and recommended retaining the existing licensing regime for pawnbrokers and dealers to most effectively achieve the Act's objective of reducing the incidence of property-related crimes, such as trafficking in stolen goods.

The review did not recommend any NCP-related amendments. The review, however, recommended various changes to improve the operation of the existing scheme, including establishing a quicker, fairer and less expensive mechanism for the return of stolen property to its rightful owners.

In April 2002, the Government accepted the review's recommendations and in May 2002 approved release of the report. The *Pawnbrokers and Second-Hand Dealers Amendment Act 2002* was passed by Parliament on 21 November 2002.

7. Workers Compensation

For the 2003 assessment, the NCC has requested information on the scope and timing of the current review of the design of the workers compensation insurance scheme.

The primary objectives of the review, being conducted by McKinsey and Co, are to inquire into and make recommendations for (i) the optimum underwriting/ insurance arrangements that will support delivery of the workers compensation scheme's objectives and Government policy principles; and (ii) the achievement of better scheme outcomes and performance in relation to price, service and efficiency; injury and claims management; risk management; funds management and premium collection.

The terms of reference for the review specifically require a range of underwriting options to be considered and the options to be assessed in accordance with the Competition Principles Agreement clause 5 guiding principle and against the financial risks posed to the New South Wales Government. The review is to evaluate any broader competition issues contained within the legislation and the management of the scheme deficit during transition to any new system.

This comprehensive review is being undertaken against a background of fundamental changes that have been made to the New South Wales workers compensation scheme in recent years. The Government is mindful of the potential exposure of statutory insurance schemes to the fortunes of commercial insurers (in spite of the oversight of APRA), highlighted by the collapse of the HIH Insurance Group in 2001.

It is anticipated that the review's final report would be submitted for consideration by the Government in the second half of 2003.

The NCC has also sought advice as to whether recent civil liability reforms in New South Wales will have an impact on workers compensation insurance. There is no direct impact anticipated as the *Civil Liability Act 2002* reforms specifically excluded workers compensation matters.

8. Retail trading Arrangements (Liquor Licensing)

The NCC has sought advice on the completion of the review of the liquor licensing provisions of the *Liquor Act 1982* and *Registered Clubs Act 1976*, reform action and the public interest case in favour of any retained restrictions.

The review has been competed following extensive public consultation and release of a discussion paper in June 2002. It is anticipated that a decision on the competition issues raised in the final report will be made towards the middle of 2003.

The report considers all current licensing requirements, including the issue of the needs test, which currently operates with respect to the issuing of an hotelier's licence or retail off-licence.

In 1996 the minimisation of harm associated with misuse and abuse of liquor was inserted as the primary object of both the *Liquor Act 1982* and *Registered Clubs Act 1976*. As a result harm minimisation obligations were placed upon licensees and regulators. However, the overall licensing scheme was not restructured at that time to reflect the new emphasis upon harm minimisation.

The review report makes a number of recommendations to refocus the licensing scheme in line with harm minimisation criteria and to ensure competition is not unnecessarily restricted.

9. Fair trading and consumer protection legislation

The NCC has previously accepted that the *Fair Trading Act 1987* need not be reviewed to the extent that provisions are consistent with the *Trade Practices Act 1974*.

The review of the *Fair Trading Act 1987* and *Door to Door Sales Act 1967* was completed in March 2002. The Government accepted the review's recommendations in August 2002 and released the review report in September 2002.

The review found that the legislation was pro-competitive and that there were net public benefits in the regulatory arrangements for consumer protection. However, the review recommended various legislative amendments to remove or reduce the effect of restrictions where these were not justified on public benefit grounds, including the removal of mandatory codes of practice for traders.

The review also recommended various other improvements, including repeal of the *Door to Door Sales Act*, amendment of the *Fair Trading Act* to streamline the existing scheme for disciplining traders, additional consumer protections in relation to direct selling practices and amendment of the existing consumer protection provisions in the *Fair Trading Act* to mirror those of the *Trade Practices Act 1974* (Cth).

The Fair Trading Amendment Bill was introduced into Parliament on 11 December 2002. It will be reintroduced when Parliament resumes in 2003.

The review of the *Funeral Funds Act 1979* was completed in November 2001. The Government accepted the review's recommendations in February 2002, as well as the preparation of an exposure bill to facilitate further public consultation.

The review found that the impact of the legislation on competition was not significant. The review established a net public benefit case for retaining key consumer protections such as ensuring that industry participants are of fit character and clarifying consumer rights in pre-paid contracts. The proposed legislation will, however, remove restrictions on funeral funds where they are not justified on public benefit grounds, including restrictions on the number of fund directors and trustees.

The review report was released in April 2002. Since that date, New South Wales has been discussing with the Commonwealth whether funeral funds are also regulated as a financial product under its *Corporations Act 2001* in which case there may have been further opportunities for reform. The position was unclear due to changes introduced under the Commonwealth financial services reforms in 2001. On 6 March 2003, the Commonwealth made a Regulation exempting particular funeral expense policies from regulation under the *Corporations Act*. It is not clear on its face the extent to which the Regulation will apply in New South Wales. The Government is currently examining the implications of the exemption for New South Wales regulation.

10. Social Regulation (Gambling)

10.1 Lotteries

While the *New South Wales Lotteries Corporatisation Act 1996* and *Public Lotteries Act 1996* were not listed for NCP review the NCC has requested further information on the outcomes of the recent statutory reviews of both Acts, which incorporated an assessment of NCP issues. The review reports were tabled in the New South Wales Parliament in December 2002. A final decision on the competition issues raised in the report is anticipated in mid-2003 following further public consultation.

The Acts were found to generally comply with NCP principles. The key competition issue relates to provisions in the *Public Lotteries Act* that confer upon New South Wales Lotteries Corporation exclusive licences to conduct seven lottery games until 2007, after which date the licences become contestable. New South Wales Lotteries Corporation was corporatised under the *New South Wales Lotteries Corporatisation Act 1996*.

The review recognised the potential costs arising out of exclusivity arrangements (such as limits on the ability of Government to transfer a licence to another party), however recommended that the exclusive licence arrangement for New South Wales Lotteries be retained until the legislated expiry date of 1 July 2007.

The review considered that there would be a net public cost in repealing the provisions before this date. New South Wales Lotteries has made long-term decisions based on the specified exclusive period of the licences, and to reduce the period might undermine its financial viability. Importantly, there are no indications that other jurisdictions will be opening up their licences to contestability prior to this date. Lifting restrictions in the absence of a national market would place New South Wales in a position of significant competitive disadvantage and also result in an absolute transfer of lottery gaming activity and revenue to other States.

It was also considered that an immediate deregulation of current arrangements would be contrary to Government policy of restricting the growth of new gambling opportunities in New South Wales.

Other competition issues included the less stringent harm minimisation requirements imposed upon lottery gaming in comparison to other gaming, such as poker machines. The review considered that the differing approaches are justified on the basis that other gaming poses substantially greater risks of harm, a finding that is supported by the Productivity Commission's 1999 *Report on Australia's Gambling Industries*.

10.2 Casino

The review of the *Casino Control Act 1992* was completed in December 1998. In December 2000 the New South Wales Government indicated in-principle support for the review's recommendations but the report needed to be updated before a final decision was made. The revision of the report was completed in March 2003.

The revised report reaches broadly the same conclusions as the first report. The review acknowledges the licence exclusivity may not be consistent with NCP principles.

However, it finds that there is no feasible or less restrictive option for casino gambling at this time given the nature of the exclusivity agreement entered into with the single licence holder and the liability for substantial compensation should the Government seek to end the agreement. Additionally, the review found that the exclusive licence arrangement was a reasonable approach to the gradual liberalisation of the gaming market in an environment of discernible community apprehension about the possible social costs.

The report draws attention to the competitive selection process for the single licence holder as a pro-competitive method of establishing a monopoly market. The monopoly profits of the venture are shared with the New South Wales public via a progressive taxation regime. However, the report acknowledges that the establishment of exclusivity arrangements to maximise taxation revenues is not a sound basis for the restriction.

The review found that other restrictions in the legislative regime focused directly upon consumer protection and probity matters and were not unduly restrictive.

The exclusivity arrangement expires in 2007. The final report recommends that the Government consider the case for liberalising the casino gaming market as the 2007 expiry date approaches. Specifically, it recommends that consideration be given to providing no new exclusive casino licences, not renewing existing exclusive licences on expiry and removing any legislative barriers to new entry into the casino gaming market.

It is anticipated that the Government will make a final decision on the revised review recommendations in mid-2003.

10.3 Gaming Machines

The Department of Gaming and Racing completed a review of the *Gaming Machines Act 2001* against competition policy principles in March 2003. The review clearly sets out the need for a comprehensive regulatory approach in the gaming machine sector to minimise the social costs of problem gambling (estimated by the Productivity Commission to be at least $1.8 billion per annum). The review determined that there is a net public benefit arising from the harm minimisation measures contained in the Act.

Specifically, the review determined that the social impact assessment required for proposed increases in the number of gaming machines in a venue within a community is an important measure to ensure the views of the community are part of the decision-making process and to ensure the decision-maker has full information on the possible harm that would flow from approval of the application.

The review noted the Productivity Commission's view, in its 1999 Report *Australia's Gambling Industries*, that venue caps can play a role in addressing the accessibility drivers of problem gambling. The review therefore supports the Government's measures to cap the number of gaming machines across the State and per venue.

Also in line with the Productivity Commission's findings, the review found that, because a purpose of advertising is to heighten product appeal and ultimately increase product demand, strong restrictions on gaming machine advertising serve the public interest.

Non-metropolitan venues were determined to have been at risk of financial non-viability if their gaming machine entitlements were traded into metropolitan areas, as had occurred in relation to liquor licences, without appropriate safeguards. The review therefore found that the non-transferability of entitlements from non-metropolitan to metropolitan New South Wales was important in maintaining social cohesion in rural areas.

The Government is confident that its gaming machine package permits market restriction only to the point of minimising the potential for individual and social harm. The Government also believes that the newly created market for tradeable gaming machine entitlements is a pro-competitive measure that offsets some of the restrictions in the package.

10.4 Minor and other Gambling

The NCC has requested further information on the public interest case supporting restrictions in the *Gambling (Two Up) Act 1998* (The Act). The NCP review of the Act was completed in September 1998.

The Act prohibits the playing of Two Up in New South Wales, except for play on Anzac Day and in the mining community of Broken Hill. The Act prescribes the traditional rules of the game, requires it to be played on a not-for-profit basis on Anzac Day and requires that profits made in Broken Hill be applied to the promotion of tourism.

The objectives of the legislation are to minimise the adverse social effects from gambling and to ensure that where Two Up is permitted, games are conducted honestly and free from criminal influence. The exemptions for Anzac Day and for Broken Hill are based on recognition of the unique historical and cultural associations of the game.

The rules of Two Up offer lower returns to players than other forms of gambling and the game is therefore less attractive to players than other games, discouraging continuous or addictive play. Additionally, lifting of restrictions on the availability of Two Up is unlikely to have a major impact given the current variety of gambling options. However, deregulation was not recommended as it was found it may encourage entry of unscrupulous operators running unfair games, incurring additional costs of ensuring compliance with rules and protecting players. Submissions to the review of the Act suggested that there was no public demand for increased availability of the game.

The joint review of the *Charitable Fundraising Act 1991* and the *Lotteries and Art Unions Act 1901* was completed in May 2001. Government endorsed the recommendations of the review in September 2002 and introduced amending legislation (Lotteries and Art Unions Amendment Bill 2002) on 11 December 2002. The Bill will be reintroduced when Parliament resumes in 2003.

The primary objectives of the legislation are to ensure integrity and fairness in the conduct of charitable fundraising and authorised lottery activities, to promote the minimisation of harm from these activities, and to assist the ongoing viability of charitable organisations, which contribute positively to the community. The Act contains restrictions on who may conduct gaming activities, sets out the type and rules of authorised lottery games and contains restrictions on cross border participation.

The review found that regulatory arrangements provide a net public benefit and are effective in achieving objectives. The review recommended that regulations generally be retained, but that certain restrictions on competition in the *Lotteries and Art Unions Act* be relaxed. These include removal of restrictions on the maximum value of cash prizes that may be offered in conjunction with a trade promotion, removal of restrictions on cross-border advertising and sales (subject to meeting probity standards) and the introduction of a negative licensing system for games of chance conducted by registered clubs.

10.5 TAB Investment Licence

Under the *Liquor Act 1982*, TAB Limited was granted a 15-year exclusive licence commencing 14 March 2000 to supply gaming machines to hotels; finance the acquisition by hotels of gaming machines; and to share in profits derived from the operation of gaming machines that TAB Limited has supplied and/ or financed.

The licence now operates under the *Gaming Machines Act 2001.* The investment licence offers an alternative way for hotels to finance the purchase of gaming machines and for clubs to access Statewide-linked gaming machines. It enables TAB to compete with the financial arrangements offered by other financial institutions, and therefore provides hotels and clubs with a more competitive environment for financing the acquisition of gaming machines.

For the 2003 assessment, the NCC has indicated that New South Wales should provide the public interest case supporting the exclusive investment licence for TAB Limited.

The Government is concerned to ensure the fitness of individuals who are in direct control of, and profit from, gaming operations. By requiring individuals with a financial interest in gaming operations to meet probity standards and be approved by control authorities, the Government can ensure that undesirable elements or persons are excluded. These controls also provide some assistance in minimising harm through problem gambling. TAB Limited, as the holder of a number of gambling licences, has satisfied gambling probity obligations. The host venues (hotels) will also have satisfied probity obligations.

The exclusive licence complies with the Competition Principles Agreement because:

- the benefits of the restriction to the community as a whole outweigh the costs;
- the conduct authorized under an investment licence will increase competition in the relevant markets;
- the monopolistic behaviour of the holder of the exclusive investment licence will be limited by competition in the relevant markets;
- the restriction will assist in maintaining responsible gambling policies; and
- the objectives of the legislation can only be achieved by restricting competition.

Before the introduction of an investment licence:

- approved gaming devices could only be supplied to hoteliers by the holder of an amusement device dealer's licence (a dealer) or the holder of an amusement device seller's licence (a seller);

- only a person approved by the Liquor Administration Board (the Board) could finance the acquisition of approved gaming devices, and the Board would not approve a dealer or a seller; and

- a hotelier could only share receipts from an approved gaming device with a person who had a financial interest in the hotel which had been declared to the Licensing Court.

The Government's reasons for introducing the investment licence were:

- to assist smaller hotels to acquire approved gaming devices that comply with the 'X standard' adopted by the Board in 1995. All approved gaming devices were to comply with this standard by 31 December 2000. Many smaller hotels appeared to require assistance to finance the replacement of non-complying approved gaming device; and

- to facilitate the introduction of the State Wide Linked Jackpots System (SWLJS) by permitting TAB to finance approved gaming devices in hotels. The NCC has accepted that TAB's exclusive licence in relation to SWLJS and the other exclusive licences granted to TAB under the Links Act and the *Totalizator Legislation Amendment Act 1997* comply with clause 5(5) of the Competition Principles Agreement.

Introducing the investment licence has increased competition in the markets for the supply of approved gaming devices and the financing of the acquisition of approved gaming devices, by giving hoteliers a choice between:

- outright acquisition from a dealer or a seller;

- outright acquisition from the holder of an investment licence;

- acquisition from a dealer, seller or the holder of an investment licence with some form of financing from a financier not otherwise connected to the gaming industry; and

- acquisition from the holder of an investment licence with some form of financing or sharing of profits.

The monopolistic conduct of the holder of the exclusive investment licence will be limited by competition from dealers and sellers in relation to supplying approved gaming devices, and from financiers not otherwise connected to the gaming industry in relation to financing the acquisition of approved gaming devices.

Historically, dealers and sellers have been restricted from financing or sharing in the profits of approved gaming devices because of the potential conflicts of interest and probity issues that arise if dealers or sellers have a stake in the profits of the approved gaming devices that they sell to hoteliers. Recognising the social costs of gambling, the Government is particularly concerned to maintain responsible gambling policies;

allowing dealers and sellers to share in the profits of approved gaming devices might undermine these policies.

To date, 14 venues have entered financial arrangements with TAB Limited under the investment licence, for 154 gaming machines.

10.6 Racing and Betting

For the 2003 assessment the NCC is seeking further evidence to support the public interest case to retain restrictions on phone betting limits on bookmakers, funding arrangements and cross-border betting.

It is noted that the above issues are currently being examined by a Cross-Border Betting Taskforce, which was established by the Conference of Australasian Racing Ministers (of which New South Wales is a member) in May 2002. The Taskforce was commissioned to investigate and report on a range of cross-border betting matters including betting limits, funding, variations in bookmaker operating conditions and cross-border advertising restrictions.

The Taskforce was to address all matters of national significance to the racing industry with the view to making recommendations to Racing Ministers regarding the long-term viability of the Australian racing industry. Major issues such as the problem of free riding on the costs of producing the racing product were specifically included. Additionally, the terms of reference for the Taskforce specified the implications of NCP must be considered.

The Taskforce reported in October 2002. The Conference of Australasian Racing Ministers is due to consider the national industry response to the report in April 2003.

The NCC noted in its 2002 Assessment that the $200 minimum limit on bets placed over telephone with a bookmaker may restrict competition, albeit probably only to a limited degree. Ahead of the Conference response, the New South Wales Government reduced the bookmaker telephone minimum bet level on or at metropolitan galloping meetings from $200 to $100 on 25 February 2003. Minimum bet restrictions on non- metropolitan galloping, harness and greyhound betting have also been removed.

The minimum telephone bet levels now applicable in New South Wales on bookmaker racing betting are now broadly in line with the majority of Australian jurisdictions (Victoria, South Australia, Western Australia and Tasmania). The applicable level in Queensland is currently $150.

New South Wales has publicly supported the Taskforce process and efforts to achieve national consistency in betting regulation. The Government will be reexamining New South Wales betting regulation, including those areas of concern to the NCC, following finalisation of Conference deliberations.

11. Planning, Construction and Development

11.1 Architects

The Productivity Commission completed a national review of architects legislation on behalf of States and Territories in 2000. On 11 December 2002, the New South Wales Government introduced the Architects Bill 2002, which provides for the repeal of the *Architects Act 1921* and implementation of reforms agreed under the national Working Group response to the review. This Bill will be reintroduced following the resumption of Parliament in 2003.

The major restriction proposed by the Bill, consistent with the approach that will be taken in other jurisdictions, will be to restrict the use of the title 'architect' to those that are registered under the new Act. The title will only be protected when used in connection with building and construction, thereby allowing the title 'architect' to be freely used in other industry areas, such as information technology. Any firm that employs an architect may also use the title or any of its derivatives upon notifying the Architects Board of its 'nominated', or supervising, architect, replacing current restrictions that require a firm to have one third of its directors as architects as a pre-condition for use.

Consistent with Productivity Commission recommendations, the Architects Bill does not contain any restrictions that prevent non-architects from the practise of building design. Under the Bill, the Board will also be required to provide a pathway to registration that recognises the experience and skills of non-architect building designers. This is relevant for the purposes of meeting criteria under New South Wales' State Environmental Planning Policy 65, which limits the right to design certain classes of multiple unit residential buildings to registered architects.

11.2 Surveyors

The review of the *Surveyors Act 1929* was competed in August 2001. The findings and recommendations of the review, which were accepted by the Government, were outlined in New South Wales's 2002 report to the NCC.

The *Surveyors Act 2002* (the Act) was assented to on 29 October 2002. The Act repealed the *Surveyors Act 1929* and removed the previous restrictions relating to the naming and ownership of surveying firms and on advertising.

The Act retained the system of registration of surveyors, as recommended by the review. The review found that there was a net public benefit in maintaining this system to ensure the integrity of the State cadastre (register of land boundaries).

11.3 Valuers

A review of the *Valuers Registration Act 1975* was completed in February 2000. While the review found that the impact of existing regulations on competition was not significant,

it recommended that a negative licensing regime replace the current registration scheme. The review also proposed the introduction of core regulations providing for qualification and practise requirements, and disciplinary action. In April 2000, the Government gave in-principle approval to the review's recommendations, subject to further consultation.

The consultation process found, contrary to assumptions within the original review, that an increasing number of consumers are dealing directly with valuers and valuers are experiencing difficulty in obtaining professional indemnity insurance due to instability in the insurance industry. There was evidence that introducing a negative licensing scheme would considerably increase the risk of financial losses being borne by consumers if incorrect valuations were given. The margin of benefits from reduction in regulation under a negative licensing scheme would not offset these risks.

The Government decided in May 2002 to retain positive licensing as the regulatory option providing the greatest net public benefit.

The Government also approved reforms to improve the efficiency of the existing scheme and to reduce the regulatory burden on valuers. These include the introduction of a single licence arrangement to replace the current system of five licences, creation of a more flexible system of qualification and competency standards and the introduction of three-year periods for registration to replace the current requirement for annual renewals.

The Valuers Bill 2002 was introduced into Parliament on 11 December 2002 and will be reintroduced when Parliament resumes in 2003.

12. Competitive Neutrality

New South Wales has complied with its competitive neutrality obligations as required under the Competition Principles Agreement. The New South Wales Annual Reports to the NCC for the year ending 2000 and for 2002 provided a comprehensive account of the application of competitive neutrality principles in New South Wales, including the complaints handling process (2002 Annual Report pages 42 and 43; Annual Report for the year ended December 2000 pages 3 to 28).

In 2002, the Government released a revised version of the *New South Wales Government Policy Statement on the Application of Competitive Neutrality* and also released a *Policy Summary of the Competitive Neutrality Complaints Handling Mechanism*.

Attachment 2 provides an updated list of New South Wales General Government agencies that are required to apply competitively neutral costing and pricing principles to goods and services.

12.1 Competitive Neutrality Complaints

During the reporting period, the Government did not receive any new requests for competitive neutrality complaints to be referred for investigation to either the Independent Pricing and Regulatory Tribunal or the State Contracts Control Board.

12.2 2000-01 Rates of Return for Government Businesses

The NCC has requested comment on the Productivity Commission's report *Financial Performance of Government Trading Enterprises 1996-97 to 2000-01*, which stated that rates of return on capital for some New South Wales Government Business Enterprises (GBEs) were below the 5.8 per cent return on 10 year Commonwealth Bonds.

In the first instance, New South Wales notes that all significant New South Wales Government businesses are required to seek appropriate recovery of capital costs, as set out in the New South Wales Treasury's Commercial Policy Framework and Guidelines for the Pricing of User Charges.

The low returns reported by the Productivity Commission are largely attributable to the differences in approach taken by the Commission and the New South Wales Independent Pricing and Regulatory Tribunal (IPART) to estimating the value of GBE asset bases. IPART regulates the pricing of most of the businesses covered by the Commission in its report due to their monopoly characteristics.

The Productivity Commission uses the average book (or accounting) value of assets for the purposes of rate of return calculations. In comparison, IPART uses an average Regulatory Asset Base (RAB) approach in relation to revenue recovery in its pricing determinations.

The IPART approach excludes those elements of the book value asset base that do not warrant a return on capital (such as uneconomic assets, excess capacity, stranded assets or developer contributions). The practical difference between the New South Wales IPART's and the Productivity Commission's approach to estimating an asset base can be

substantial. For example, whereas the June 2000 book value of Sydney Water's assets was $13.1 billion, the value of its RAB was $5.4 billion. The RAB approach is considered to promote more appropriate decision making by New South Wales GBEs.

It is important to note that the effective asset returns set by IPART are based on weighted average cost of capital rates that exceed the Commonwealth Bond rate. For example, IPART has allowed water utilities a real pre-tax rate of return of around 6.5 per cent for the current three-year price path. The magnitude of the difference in value between book value assets and RAB however means that some New South Wales GBEs with long-lived assets may continue to earn 'book value' returns below the Commonwealth Bond rate.

Certain entities' low returns are also attributable to significant losses (abnormal items). These entities' performances were typically affected by events such as capital restructures that occur infrequently and can be hard to predict. For example, TransGrid incurred a $160 million loss on prepayment of their debt portfolio, reducing the return on equity to -9.6 per cent in 2000-01, down from 10.4 per cent in 1999-2000.

13. Structural Reform of Monopolies

Comprehensive information on the structural reform of public monopolies was provided in the New South Wales Annual Report to the NCC for the year ended 2000 (pages 29 to 33). Updated information on New South Wales Government Business Enterprises that have been corporatised or privatised or have been assessed as potential candidates for corporatisation or privatisation in the medium term is provided at Attachment 3.

During 2001-02, the New South Wales Government corporatised three Government-owned entities:

1. Waste Service, on 1 September 2001;

2. Landcom, on 1 January 2002; and

3. The Snowy Mountains Hydro Electricity Authority, on 28 June 2002.

On 7 February 2003, Pacific Power International, a wholly owned subsidiary of Pacific Power providing engineering services to the energy sector, was sold to Connell Wagner.

Attachment 1: Update on planning and land-use reform projects

Project	Original Timeframe	Status at March 2002	Current status (March 2003)
1. Development of policy options for integrated approvals system.	Discussion Paper 1996	***Completed*** Integrated Development amendments commenced 1 July 1998.	
2. Review of referral and concurrences in local planning policies.	1996-98	***Underway*** The provision of greater strategic direction provided by the planFIRST reforms will have the effect of reducing the level of referrals and concurrences.	***Underway*** Local plans will be reviewed and amended as part of PlanFIRST. It is envisaged that local plans will set out the vision for the future and the strategies and actions needed to get there. Local plans will be based on a single, comprehensive planning strategy for a local government area which addresses the key social, economic and environmental issues relevant to the future of the area.
3. Extend Guarantee of Prompt Service to concurrent approvals under the *Environmental Planning and Assessment (EP&A) Act*.	1997	***Completed*** New concurrence processes in place since 1/ 7/ 98 reduce timeframes from 80 days to 60 days.	
4. Review of multiple controls on land clearing State Environmental Planning Policy (SEPP) 46.	1996 Report on SEPP 46 to be submitted to the Premier before 1996.	***Completed*** SEPP 46 was replaced by the *Native Vegetation Conservation Act 1997*, which came into force on 1/ 1/ 98, following a detailed public consultation and review process.	

Project	Original Timeframe	Status at March 2002	Current status (March 2003)
5. Integration of total catchment management objectives in planning instruments.	1996-97 TCM review report was submitted to Parliament March 1997	***Underway*** A Government White Paper: *Plan First – Review of Plan Making* released February 2001. The White Paper proposed to integrate catchment management objectives into new *Regional Strategies*: integrated, strategic planning instruments under the EP&A Act, that will apply to every region of NSW. It is expected that the planFIRST legislation will require that aspects of natural resource management plans that relate to land use and environmental planning and require regulation will be implemented through the EP&A Act. This will occur through their inclusion in Local Plans. Draft legislation is being finalised for introduction into Parliament in the first half of 2002.	***Completed*** A decision has been made to implement PlanFIRST administratively at this stage. When developing regional strategies under PlanFIRST, regional forums will be required to take natural resource management plans into account.
6. Examine feasibility of incorporating plans for: river, land, and habitat management; environmental protection; and forestry reserves into planning instruments under the EP&A Act.	1997	***Underway*** Government White Paper: *Plan First - Review of Plan Making*, released February 2001. A key theme of the White Paper is the integration of all policies and plans for environmental and land use issues into one local planning instrument for each Local Government Area (LGA), one regional strategy for each region and one state planning policy document.	***Completed*** A decision has been made to implement PlanFIRST administratively at this stage. When developing regional strategies under PlanFIRST, regional forums will need to take natural resource management plans into account.

Project	Original Timeframe	Status at March 2002	Current status (March 2003)
7. Review and reform of regulations affecting mining.	Amalgamate to planning frameworks from 1997-2000	***Underway*** Comprehensive review of mines legislation is underway. Position paper completed in August 2001.	***Underway*** The Government introduced the *Coal Mine Health and Safety Act 2002* in response to a review of safety at coal mines. The Act repealed the *Coal Mines Regulation Act* and complements the OHS Act. In December 2002, the Government introduced into Parliament a draft Mine Health and Safety Bill, following a review of safety in metalliferous mines and quarries. The draft Bill proposes to repeal and replace the *Mines Inspection Act 1901*. Following further consultation with safety experts, industry and employee representatives, it is intended that the new legislation will be introduced into Parliament in 2003.
8. Review and reform of regulations affecting mariculture.		***Completed*** NCP Review complete. The Review confirms net public benefits from current regulations.	
9. Review and reform of regulations affecting forestry including the corporatisation of State Forests.	Legislation to be introduced in Autumn Session 1997 to achieve phased implementation.	The *Plantations and Reafforestation Act* and Code commenced in December 2001 The option to establish State Forests as a State Owned Corporation has been canvassed. However, the decision has been made not to proceed with this approach. State Forests is a Public Trading	

Project	Original Timeframe	Status at March 2002	Current status (March 2003)
		Enterprise and operates under a framework which requires: - the application of commercially based targets of rates of return, dividends and capital structures; - regular performance monitoring; - the payment of State taxes and Commonwealth tax equivalents; - the payment of risk-related borrowing fees; and - explicitly funded social programs ie. 'Community Service Obligations'.	
10. Review of s90 EP&A Act 'heads of consideration' for development consent.		***Completed*** Section 79C of the reformed EP&A Act introduces generic heads of consideration streamlining old processes.	
11. Review potential for increasing 'as of right developments'.	1996-97	***Completed*** Completed with the introduction of State-wide complying/ exempt development in April 2000. 85 per cent of councils in NSW have some form of complying/ exempt development.	
12. Consider potential for private certification of building, sub-division water and sewerage approvals.	1996-97	***Completed*** Reforms to development assessment system introduced 1 July 1998 contain certification for building and subdivision.	

Project	Original Timeframe	Status at March 2002	Current status (March 2003)
13. Integrate building and planning approvals.	1996-97	***Completed*** Reforms to development assessment system combined the development, building and subdivision approval processes.	
14. Examine zoning prohibitions for anti-competitive effects; consider wider adoption of performance standards.	1996-97	***Underway*** See No. 18 below.	***Underway*** Under planFIRST it is expected that each local council will develop a new single local plan based on a locality planning approach. It is therefore likely that there will be fewer zoning classifications. Councils will also have the assistance of Department of Urban and Transport Planning staff to develop these plans therefore it is likely that there will be greater standardisation of definitions and standards across local plans. In addition, in December 2002 the Development Assessment Forum (DAF) which includes representatives of States, local councils and industry bodies, released a study *Comparative Performance Measurement and Benchmarking of Planning and Development Assessment Systems*. The DAF is currently reviewing submissions received.
15. Review and reform development without consent (SEPP 4) for change of use in industrial areas.	1998	***Completed*** Undertaken through the establishment of the new categories of Exempt and Complying Development under the	

Project	Original Timeframe	Status at March 2002	Current status (March 2003)
		EP&A Act.	
16. Consider combining development and re-zoning applications.	1998	***Completed*** EP&A Act amended to allow for this situation.	
17. Review heritage approvals and consider better integration with Development Approval/ Building Approval (DA/ BA) processes.	1996-97	***Completed*** Heritage approvals now integrated under the EP&A Act. Heritage Act amendments streamline the process if development accords to a Conservation Plan.	
18. Consider potential for standardising consent conditions, zoning classifications and definitions of performance standards.	1998	***Underway*** Under planFIRST it is expected that each local council will develop a new single local plan based on a locality planning approach. It is therefore likely that there will be fewer zoning classifications. In addition, as councils will have the assistance of PlanningNSW staff to develop these plans it is likely that there will be greater standardisation of definitions and standards across local plans. PlanningNSW is reviewing the final set of standard definitions produced by DAF for inclusion as part of the planFIRST reforms.	***Underway*** The PlanFIRST initiative is still underway (see previous column). In December 2002 the Development Assessment Forum (DAF) which includes representatives of States, local councils and industry bodies, released a study *Comparative Performance Measurement and Benchmarking of Planning and Development Assessment Systems*. The DAF is currently reviewing submissions received. Planning NSW has also developed BASIX. BASIX is a comprehensive web-based planning tool for councils and proponents of residential dwellings to assess the potential performance of their development against an agreed set of sustainability

Project	Original Timeframe	Status at March 2002	Current status (March 2003)
			indices.
19. Stage II review of pollution control acts to streamline and rationalise licensing procedures.	1996-97	***Completed*** The *Protection of the Environment Operations Act 1997* (PoEO Act) and regulations commenced on 1 July 1999, replacing five core pollution control statutes and providing for stronger environment protection, while streamlining the licensing process. Businesses now require only one environment protection licence that recognises the ongoing, long-term nature of operations.	
20. Review water legislation and licensing.	1996-97	***Completed*** Review completed. New *Water Management Act 2000* being implemented.	
21. Develop framework for Coordinated/ Integrated Development Approval Conditions and other requirements and advice on the use of the framework.	1996-97	***Underway*** Practice notes on conditions relating to integrated development have been released as part of the publication *Guiding Development: better outcomes.*	***Completed*** The Planning NSW website contains comprehensive information about the integrated development framework.
22. Develop Best Practice Guidelines for a Co-ordinated/ Integrated Development Approval System for Mining and Extractive Industry.	1996-97	***Completed*** Guidelines were issued in September 1997. Relevant amendments to the EP&A Act came into effect in July 1998.	

Project	Original Timeframe	Status at March 2002	Current status (March 2003)
23. Develop Best Practice Guidelines for Planning Focus.	1996-97	***Completed*** Guidelines have been prepared.	
24. Develop Best Practice Guidelines for Community Consultation.	1996-97	***Underway*** Guidelines will be released as part of the planFIRST package. Expected mid 2002.	***Underway*** The guidelines *Community Engagement in the New South Wales Planning System* were released in early March 2003.
25. Review of endangered species legislation so as to integrate licences and DAs.		***Completed*** The *Threatened Species Conservation Act 1995* amended the *National Parks and Wildlife (NP&W) Act 1974* to integrate licences and development applications/ consents with respect to harming, picking threatened species populations or ecological communities. See s18A (3) (b) of the NP&W Act. The amendment took effect on 1/ 1/ 96.	
26. Adopt reformed Australian Building Code (as performance standards) with minimal variations.	1996-97	***Completed*** Performance-based 1996 Building Code of Australia was adopted in NSW.	
27. Convert siting rules to performance standards.	1996-97	***Completed*** Fire standards provisions were repealed on 1 July 1999. These siting standards are now controlled via the performance-based Building Code of Australia, and councils' Local Environment Plans (LEPs) and Development Control Plans (DCPs). Other siting requirements are controlled under LEPs and DCPs	

Project	Original Timeframe	Status at March 2002	Current status (March 2003)
		where necessary.	
28. Extend and improve performance benchmarking of local councils.	1996-97	***Ongoing*** The Govt continues to improve its local council comparative performance information. PlanningNSW is working on a program to measure the effectiveness of the development assessment system. An auditing program of councils' performance will further decentralise development assessment fees.	***Ongoing***
29. Public consultation to improve operation of current approval rights and dispute resolution system.	1997	***Underway*** It is expected that the planFIRST reforms will lead to a simplified planning system with greater room for community consultation. This is expected to reduce disputes at the development assessment and approval stage.	***Underway*** The guidelines *Community Engagement in the New South Wales Planning System* were released in early March 2003.
30. Examine the potential for consolidating land, water and related natural resource management legislation into a single statute.	1996-97	***Completed*** NSW has examined the potential for consolidating relevant statutes into a single Act. NSW has decided, however, on an integrated policy framework, which will continue to involve separate environmental planning and natural resource management legislation.	

Attachment 2: Significant NSW General Government sector agencies required to implement pricing principles

No.	Government Purpose (ABS)[1]	Government Agency/Activity	GGE (ABS)[2]	Treasury Monitor[3]	User[4] Charges	Sig[5]	Min[6]
	(01) General Public Services						
1		Audit Office of NSW	√	√	√	√	
2		Cabinet Office	√	√			
3		Community Relations Commission	√	√	√	√	
4		Independent Commission Against Corruption	√	√	√		√
5		Legislature	√	√	√		√
6		Local Government, Dept of	√	√	√		√
7		Ombudsman's Office	√	√	√		√
8		Parliamentary Counsel's Office	√	√	√		√
9		Premier's Department	√	√	√		√
10		Public Trustee	√	√	√	√	
11		Registry of Births, Deaths and Marriages	√	√	√	√	
12		State Electoral Office	√	√	√		√
13		State Records	√	√	√	√	
14		Treasury	√	√	√	√	
	(03) Public Order & Safety						
15		Attorney General's Dept	√	√	√	√	
16		Corrective Services, Dept of	√	√	√	√	
17		Crime Commission, NSW	√	√	√		√
18		Director of Public Prosecutions, Office of	√	√	√		√
19		Fire Brigades, NSW	√	√	√	√	
20		Judicial Commission of NSW	√	√	√		√
21		Juvenile Justice, Dept of	√	√	√		√
22		Legal Aid Commission	√	√	√	√	
23		Police Integrity Commission	√	√			
24		Police, Ministry for	√	√	√		√
25		Police, NSW	√	√	√	√	
26		Rural Fire Service	√	√			
27		State Emergency Service	√	√	√		√
	(04) Education						
28		Board of Studies, Office of the	√	√	√	√	
29		Department of Education and Training	√	√	√	√	
	(05) Health						
30		Health Care Complaints Commission	√	√	√		√
31		Health, Dept of	√	√	√	√	
	(06) Social Security & Welfare						
32		Aboriginal Affairs, Dept of	√	√			
33		Ageing, Disability and Homecare, Dept of	√	√	√	√	
34		Commission for Children and Young People	√	√	√		√
35		Community Services Commission	√	√	√		√
36		Community Services, Dept of	√	√	√		√
37		Home Care Service	√	√	√	√	
38		Office of the Children's Guardian	√	√			
39		Rental Bond Board	√	√			
40		Women, Dept for	√	√			
	(07) Housing & Community Amenities						
41		Aboriginal Housing Office	√	√	√	√	

42	Environmental Trust	√	√			
43	Environment Protection Authority	√	√	√		√
44	Honeysuckle Development Corporation	√	√	√	√	
45	Home Purchase Assistance Fund	√	√	√		√
46	Planning, Dept of	√	√	√	√	
47	Storm Water Trust	√	√			
48	Waste Planning & Management Fund	√	√			

No.	Government Purpose (ABS)[1]	Government Agency/Activity	GGE (ABS)[2]	Treasury Monitor[3]	User[4] Charges	Sig[5]	Min[6]
	(08) Recreation & Culture						
49		Art Gallery of NSW	√	√	√	√	
50		Arts, Ministry for the	√	√	√		√
51		Australian Museum	√	√	√	√	
52		Casino Control Authority	√	√	√	√	
53		Centennial Park and Moore Park Trust	√	√	√	√	
54		Film and Television Office, NSW	√	√	√		√
55		Gaming and Racing, Dept of	√	√	√		√
56		Heritage Office	√	√	√		√
57		Historic Houses Trust of NSW	√	√	√	√	
58		Luna Park Reserve Trust	√	√	√		√
59		Museum of Applied Arts and Sciences	√	√	√	√	
60		National Parks and Wildlife Service	√	√	√	√	
62		Royal Botanic Gardens and Domain Trust	√	√	√	√	
63		Sport and Recreation, Dept of	√	√	√	√	
64		State Library of NSW	√	√	√	√	
65		State Sports Centre Trust	√	√	√	√	
66		Sydney Entertainment Centre	√		√		√
67		Sydney Olympic Park Authority	√	√	√	√	
	(09) Fuel & Energy						
68		Coal Compensation Board	√	√	√		√
69		Electricity Tariff Equalisation Ministerial Corp.	√	√			
70		Ministry of Energy and Utilities	√	√	√		√
71		Mineral Resources, Dept of	√	√	√	√	
72		Sustainable Energy Development Authority	√	√	√		√
	(10) Agriculture, Forestry, Fishing & Hunting						
73		Agriculture, Dept of	√	√	√	√	
74		Fisheries, NSW	√	√	√	√	
75		Land and Water Conservation, Dept of	√	√	√	√	
76		Rural Assistance Authority	√	√			
77		Safe Food Production NSW	√	√	√	√	
	(11) Mining, Mineral Resources, Manufacturing & Construction						
78		Building & Construction Industry - Long Service Payments Corporation	√	√			
79		Public Works and Services, Office of the Minister	√	√	√	√	

	(12) Transport & Communications						
80		Information Technology and Mgmt, Dept of	√	√	√	√	
81		Motor Accidents Authority	√	√			
82		Office of the Co-ordinator General of Rail	√	√			
83		Roads and Traffic Authority	√	√	√	√	
84		Transport NSW	√	√	√	√	
85		Waterways Authority	√	√	√	√	
	(13) Other Economic Affairs						
86		Fair Trading, Dept of	√	√	√	√	
87		Independent Pricing & Regulatory Tribunal	√	√	√		√
88		Industrial Relations, Dept of	√	√	√		√
89		Insurance Ministerial Corporation	√	√	√	√	
90		Land and Property Information NSW	√	√	√	√	
91		Registry of Encumbered Vehicles	√	√	√	√	
92		State and Regional Development, Dept of	√	√	√		√
93		Superannuation Administration Corporation	√	√	√	√	
94		Tourism NSW	√	√	√		√
95		WorkCover Authority	√	√	√	√	
96		Worker's Compensation (Dust Diseases) Board	√	√	√		√
	(14) Other Purposes						
97		Crown Property Portfolio	√	√	√	√	
98		Crown Finance Entity	√	√	√	√	

Key to Attachment 2:

1 Categories as per the Australian Bureau of Statistics (ABS) in *Standard Economic Sector Classifications of Australia (SESCA) 1998*.

2 General Government Enterprises (GGEs) as defined by the ABS in *GFS Australia: Concepts, Sources and Methods*.

3 These agencies/ activities are monitored by Treasury on the basis of a risk and materiality assessment.

4 A user charge is a voluntary payment by a consumer to a PTE or a general government entity for services provided. Payment is commercial rather than regulatory and provides an identifiable benefit to the payer. (ABS: *GFS Australia: Concepts, Sources and Methods*). The existence of user charges is a broad indicator of a business activity.

5 Significant > $2 million user charges revenue p.a. (as based on 2002–2003 Budget estimates).

6 Minor < $2 million user charges revenue p.a. (as based on 2002–2003 Budget estimates).

Attachment 3: NSW Government Business Enterprises that have been or are intended to be corporatised or privatised

No.	Industry	Government Business Enterprise	ABS PTE[1]	Treasury Monitoring[2]	Category[3]	Already Priv'n	Already Corp'n	Date Priv'n(P)/Corp'n	Comments
	Electricity								
1		Australian Inland	√	√	1		√	1/3/96	Absorbed Broken Hill Water Board
2		Country Energy	√	√	1		√	1/7/01	Merger of former Advance Energy, Great Southern Energy and NorthPower.
3		Delta Electricity			1			1/3/96	
4		Energy Australia		√	1		√	1/3/96	
5		Eraring Energy	√		1			2/8/00	Formerly part of Pacific Power
6		Integral Energy	√	√	1		√	1/3/96	
7		Macquarie Generation		√	1		√	1/3/96	
8		Pacific Power International	√		1			7/2/03 (P)	Former subsidiary of Pacific Power
10		Power Coal Pty Ltd	√	√			√	29/07/02(P)	Former subsidiary of Pacific Power
11		Snowy Mountains Hydro Limited	√	√	3	√		28/06/02	Jointly owned with Victoria and the Commonwealth.
12		TransGrid	√	√	1	√		14/12/98	
			√	√			√		
			√	√			√		
	Finance								
13		Axiom Funds Management Corporation			3	√		16/5/97(P)	
14		Government Insurance Office (GIO)	PFE	√	4			16/7/92(P)	
15		NSW Treasury Corporation (TCorp)			1	√		1983	

No.	Industry	Government Business Enterprise	ABS PTE[1]	Treasury Monitoring[2]	Category[3]	Already Priv'n	Already Corp'n	Date Priv'n(P)/Corp'n	Comments
16		State Bank of NSW		√	4		√	31/12/94(P)	
				√		√			
	Gaming & Recreation								
17		NSW Lotteries	√	√	1		√	1/1/97	
18		Totalizator Agency Board of NSW (TAB)			4			6/98(P)	
			√	√		√			
	Ports & Waterways								
19		Newcastle Port Corporation	√	√	1		√	1/7/95	
20		Port Kembla Port Corporation			1			1/7/95	
21		Sydney Ports Corporation	√	√	1		√	1/7/95	
			√	√			√		
	Transport								
22		Freight Rail Corporation	√	√	4	√		21/2/02(P)	Sold in conjunction with sale of NRC
23		Rail Infrastructure Corporation			1			1/1/01	Merger of RAC and RSA
			√	√			√		

No.	Industry	Government Business Enterprise	ABS PTE[1]	Treasury Monitoring[2]	Category[3]	Already Priv'n	Already Corp'n	Date Priv'n(P)/Corp'n	Comments
	Water								
24		Coleambally Irrigation	√			√		9/6/00(P)	
25		Hunter Water Corporation		√	1			1/1/92	
26		Murrumbidgee Irrigation	√				√	12/2/99(P)	
27		Sydney Water Corporation	√	√	1	√		1/1/95	
			√	√			√		
	Misc								
27									
28		First Australian National Mortgage		√	5	√		31/10/94(P)	NSW Gov 25% shareholder only
29		Acceptance							
30		Fish Marketing Authority			3			31/10/94	
31		Jenolan Caves Reserve Trust	√		3	√			Advisory Board has been established.
32		Landcom			1			1/1/02	
33		State Forests of NSW	√	√	1		√		
34		Superannuation Administration Corporation	√		1			26/7/99	
35		Sydney Market Authority		√				1/11/97(P)	
		Waste Recycling and Processing Corporation	√	√	1		√	1/9/01	
						√			
			√				√		

Key to Attachment 3:

[1] Public Trading Enterprises (PTEs) and Public Financial Enterprises (PFEs) as defined by the Australian Bureau of Statistics (ABS) in *Standard Economic Sector Classifications of Australia (SESCA) 1998.*

[2] GBEs monitored by Treasury on a quarterly or half–yearly basis are within the Commercial Policy Framework (CPF).

[3] On the basis of a risk and materiality assessment, Treasury has identified five financial monitoring programs. These are categorised as follows:

(1) Quarterly reporting and monitoring for:
- all State Owned Corporations (SOCs);
- all dividend paying GBEs;
- those GBEs which are assessed as having the potential in the medium term to become dividend paying; and
- high risk/ materiality GBEs.

(2) Half–yearly monitoring for GBEs in the medium risk/ materiality category.

(3) Portfolio monitoring exclusively by the relevant Minister, with relatively low risk exhibited.

(4) Post–privatisation monitoring for GBEs that are no longer owned by the Government. As the Government may bear ongoing financial risks, these require identification and management. Frequency of monitoring will vary depending upon circumstances of sale and the right of the Government to access information. Major privatised GBEs are to be reviewed at least on a quarterly basis.

(5) Businesses where the State has a minority interest as a shareholder are monitored quarterly, assuming that the shareholding is material and/ or the business is exposed to particular trading/ operating risks.