# National Competition Policy Progress Report

## 1 August 1997 to 31 August 1998

# GLOSSARY OF TERMS

| | |
|---|---|
| ACCC | Australian Competition and Consumer Commission |
| ATC | Australian Transport Council |
| ARMCANZ | Agricultural Resource Management Council of Australia and New Zealand |
| ARRs | Australian Road Rules |
| CCA | Conduct Code Agreement |
| COAG | Council of Australian Governments |
| CPA | Competition Principles Agreement |
| CTC | Competitive Tendering and Contracting |
| CTP | Compulsory Third Party (Insurance) |
| ESI | Electricity Supply Industry |
| EWA | Esk Water Authority |
| FAGs | Financial Assistance Grants |
| FCA | Full Cost Attribution |
| GBE | Government Business Enterprise |
| GPOC | Government Prices Oversight Commission |
| HEC | Hydro-Electric Corporation |
| HRWA | Hobart Regional Water Authority |
| ICM | Integrated Catchment Management |
| IDC | Interdepartmental Committee |
| LGAT | Local Government Association of Tasmania |
| LGO | Local Government Office |
| LRP | Legislation Review Program |
| MAIB | Motor Accidents Insurance Board |
| MAST | Marine and Safety Authority of Tasmania |
| MCRT | Ministerial Council for Road Transport |
| NCC | National Competition Council |
| NCP | National Competition Policy |
| NEC | National Electricity Code |
| NEM | National Electricity Market |
| NGMC | National Grid Management Council |
| NRTC | National Road Transport Commission |
| NWRWA | North West Regional Water Authority |
| PEVs | Protected Environmental Values |
| PFEs | Public Financial Enterprises |
| PTEs | Public Trading Enterprises |
| RIS | Regulatory Impact Statement |
| SPC | Special Premiers' Conference |
| TACE | Transport Agency Chief Executives |
| TPA | *Trade Practices Act 1974* (Commonwealth) |
| TEC | Tasmanian Electricity Code |
| VFI | Vertical Fiscal Imbalance |
| WSAA | Water Services Association of Australia |

# EXECUTIVE SUMMARY

The Tasmanian Government is strongly committed to the principles contained in the National Competition Policy (NCP) Agreements signed by all Australian Governments in April 1995.

This is the second public NCP Progress Report released by the Tasmanian Government which details progress with the implementation of NCP and sector specific reforms in the areas of electricity, water, gas and transport.

Through the Government's NCP implementation program, the following work has been undertaken in the period between 1 August 1997 and 31 August 1998:

- the Tasmanian Government has provided advice to the ACCC, as required by the Conduct Code Agreement, regarding the existence of any legislative exemptions from the restrictive trade practices provisions contained in Part IV of the *Trade Practices Act 1974* ("section 51 exemptions"), which were in existence in Tasmanian legislation prior to 11 April 1995;

- the Government is continuing to apply the competitive neutrality principles to Government business activities in Tasmania in accordance with the June 1996 policy statement. To this end, Agencies have identified their significant business activities and are developing implementation timetables for reforms;

  Other recent reforms in this area include the following:

  – the document entitled *Guidelines for Implementing Full Cost Attribution Principles in Government Agencies* was completed and released to Agencies in September 1997;

  – the *North West Water Amendment Act 1998* was passed by Parliament in December 1997. Once proclaimed, this Act will enable the transfer of the North West Regional Water Authority (NWRWA) to a local government joint authority; and

  – in January 1998, the *Metro Tasmania Act 1997* and *Metro Tasmania (Transitional and Consequential Provisions) Act 1997* received Royal Assent, thereby effecting the transition of the former Government Business Enterprise, the Metropolitan Transport Trust, to a State-owned company.

- the *Government Prices Oversight Amendment Act 1997* has been enacted. This Act extends the coverage of the *Government Prices Oversight Act 1995* to include local government monopoly services. The Act also provides for the Government Prices Oversight Commission (GPOC) to hear complaints regarding the application of NCP competitive neutrality principles to both State and local government business activities;

- GPOC completed a review of the pricing policies of the Motor Accidents Insurance Board in August 1997. GPOC has recently been involved in the following investigations:
  - in January 1998, GPOC was requested to investigate the pricing policies associated with the provision of bulk water by the Hobart Regional Water Authority, the Esk Water Authority and the North West Regional Water Authority. GPOC released its report on general water pricing principles to key stakeholders on 31 August 1998. The Commission's final report on this matter is due by 30 November 1998; and
  - in April 1998, GPOC was requested to undertaken an investigation into the appropriate maximum price controls for electricity generation, transmission, distribution and retailing as well as maximum charges for system control functions for the period 2000 to around 2003. The investigation was subsequently transferred to the Electricity Regulator under the *Electricity Supply Industry (Price Control) Regulations 1998* from 1 July 1998. The Regulator is required to complete the investigation and publish a final report by 29 January 1999;

- a number of major reviews of legislation which restrict competition have been undertaken through the Government's Legislation Review Program (LRP) and a very large number of reviews are currently in progress. Acts recently reviewed include the *Traffic Act 1925*, the *Motor Accidents (Liabilities and Compensation) Act 1973* and the *Apple and Pear Industry (Crop Insurance) Act 1982*;

- a number of new Acts have been assessed under the "gatekeeper" provisions of the LRP and subsequently introduced, resulting in significant reforms in a number of areas such as the health professions, which were previously highly regulated;

- the Government has made notable progress in applying the CPA principles to local government. This has been achieved through:
  - the enactment of the *Government Prices Oversight Amendment Act 1997;*
  - the release of the *By-Law Making Procedures Manual* in August 1997 which outlines procedures for the review of all proposed or existing by-laws in accordance with NCP legislation review requirements; and
  - the adoption by Tasmanian councils of the competitive neutrality principles at a faster pace than envisaged under the Government's policy statement. This was evidenced by the decision by 18 of the 29 councils to apply full cost attribution to all of their business activities (rather than just those regarded as "significant"). The combination of the August 1998 State election and the recent Supreme Court decision regarding local government elections, however, has temporarily stalled progress in this area;

- Tasmania currently does not have any NCP obligations with regard to electricity reform. The proposal to join the National Electricity Market (via Basslink), however, requires the Government to comply with COAG requirements for Tasmania's entry to the NEM and observe the NCP structural review principles. Progress in relation to complying with the COAG requirements for entry to the NEM include:

  - the completion of a NCP structural review of the HEC's distribution/retail business. The recommendations arising from the review were taken into account in relation to the separation of the HEC's businesses and have played a significant role in the design of the new regulatory arrangements for the electricity supply industry in Tasmania; and

  - the separation of the Hydro Electric Corporation's transmission, distribution and retail businesses into Government-owned companies through the *Electricity Companies Act 1997*.

  Tasmania has also introduced the *Tasmanian Electricity Code* (TEC) which provides for, *inter alia*, third party access to the Tasmanian transmission and distribution network in a similar way in which the National Electricity Code sets out the access arrangements for the NEM;

- Tasmania has signed the national Natural Gas Pipeline Access Agreement. Through the Agreement, jurisdictions have agreed that certain principles are to apply to access negotiations and that the National Third Party Access Code for Natural Gas Pipelines will be given legal effect by a uniform Gas Pipelines Access Law. In light of this, the Government has decided to implement new gas access legislation and repeal a number of existing gas Acts which are no longer relevant or potentially conflict with the national gas reform initiatives;

- the Government is continuing to progress efficient and sustainable water industry reforms required to meet its second tranche NCP obligations. Progress in this reform area includes:

  - the continuation of public consultation in respect of a draft Water Management Bill to replace the *Water Act 1957* and associated water management legislation;

  - the development of a new method for licensing water users which provides a uniform and consistent licensing system for all water users in Tasmania;

  - the enactment of the *Irrigation Clauses Amendment Act 1997* to provide for the separation of water rights from land titles for all irrigation schemes covered by the Act; and

  - the development of a State Policy on Integrated Catchment Management (ICM) under the *State Policies and Projects Act 1993*. It is proposed that under the ICM Policy, all public and private natural resource managers and planning authorities will be required to meet agreed catchment management objectives for soil, water, vegetation and biodiversity;

- the Government is in the process of developing legislation to introduce nationally consistent vehicle registration and driver licensing systems as part of the National Road Transport Commission (NRTC) road transport reforms. The Government is also implementing a further package of road transport reforms which have been developed by the Committee of Transport Agency Chief Executives (TACE) but which lie outside the State's NCP obligations; and

- In November 1997, Parliament passed new, pro-competitive passenger transport legislation to replace the existing restrictive public vehicle licensing system contained in Part III of the *Traffic Act 1925*. Proclamation of the new suite of passenger transport legislation has been deferred, however, as a consequence of the August 1998 State election.

# *1. INTRODUCTION*

At its April 1995 meeting, the Council of Australian Governments (COAG) signed a number of Agreements designed to boost the competitiveness and growth prospects of the national economy into the future. The Agreements give effect to a package of micro-economic reform measures that represent the National Competition Policy (NCP).

Under the Competition Principles Agreement (CPA), the Tasmanian Government is required to publish an annual report on its progress in implementing the competitive neutrality and legislation review principles. The NCP Progress Reports will outline progress with the remaining NCP reform principles and NCP sector specific reforms relating to electricity, water, gas and transport.

The Tasmanian Government's first public Progress Report was released in August 1997, along with the handing down of the 1997-98 State Budget. That report covered the period from 11 April 1995 to 31 July 1997. This Report outlines the Tasmanian Government's progress in the implementation of NCP and related reforms in Tasmania from 1 August 1997 to 31 August 1998.

Specifically, this Report:

- details Tasmania's commitments in implementing agreed NCP and related reforms, particularly in relation to the second tranche NCP payments due in 1999-2000;
- provides an outline of Tasmania's progress in implementing the reforms to date; and
- outlines the progress towards the full implementation of the reforms that have been, or are being, made to qualify for the second tranche NCP payments.

# *2. THE NATIONAL COMPETITION COUNCIL'S ASSESSMENT OF TASMANIA'S IMPLEMENTATION OF NCP AND RELATED REFORMS*

In March 1997, the Tasmanian Government submitted to the National Competition Council (NCC) a report on its progress in implementing its first tranche NCP obligations. This report formed the basis upon which the NCC assessed Tasmania's progress in implementing NCP and related reforms for the purpose of recommending to the Commonwealth Treasurer whether the conditions for the first tranche of NCP payments were met.

In June 1997, the NCC gave Tasmania a positive assessment in its recommendations to the Commonwealth Treasurer on whether the State has successfully qualified for the first tranche of NCP payments, which were payable in 1997-98. The Commonwealth Treasurer confirmed in early July 1997 that

Tasmania would receive first tranche payments, totalling $13.1 million in 1997-98 (which have subsequently been re-valued at $12.0 million (in 1998-99 dollars) due to updated CPI and population estimates). These payments were received on a quarterly basis commencing in July 1997.

The Council did express some concern with the State's progress in relation to the application of NCP to local government. Specifically, the NCC recommended that Tasmania should receive its first tranche NCP payments for 1997-98, but that the 1998-99 component of the first tranche payments be conditional on the NCC carrying out an "interim assessment" of the State's progress with the application of NCP to local government.

It should be noted that the NCC expressed similar concerns about local government and a number of other reform areas in its assessment of the implementation of NCP by other States and Territories, which also resulted in interim assessments for all parties during 1998-99. In this regard, it was considered that the NCC had fewer concerns with the implementation of NCP in Tasmania relative to all other States.

In June 1998, the NCC provided the Commonwealth Treasurer with its interim assessment report on State and Territory performance against NCP and related reform commitments for the second year of the first tranche (1998-99).

The majority of jurisdictions, including Tasmania, have been assessed by the Council as having met their first tranche commitments in respect of issues outstanding from the first tranche obligations. The only exception is NSW, where the NCC has assessed that NSW did not meet its first tranche commitments with respect to domestic rice marketing and has recommended to the Commonwealth Treasurer that $10 million be deducted from NSW's first tranche NCP payments (should they fail to change their approach in this regard prior to early 1999).

In relation to Tasmania's outstanding first tranche issues, the Council has accepted that council amalgamations are likely to lead to a wider and more timely application of the competitive neutrality principles. Following commitments given by Tasmania to seek the agreement of the new councils to apply full cost pricing and the anticipated earlier completion of the corporatisation program, the Council reported that it was satisfied with Tasmania's progress against its first tranche commitments. The Council also indicated, however, that the timetable Tasmania has set itself for applying competitive neutrality principles to local government business activities would be important for the second tranche assessment.

## *2.1 SECOND TRANCHE OBLIGATIONS*

In order to qualify for receipt of its share of the second tranche of payments in 1999-2000, Tasmania must:

- take steps, where relevant, to complete the transition to a fully competitive National Electricity Market by 1 July 1999;

- At this stage, Tasmania is not a "relevant jurisdiction" for the purposes of these reforms to the electricity supply industry, due to the absence of any physical interconnection with the national electricity grid.

- continue with the effective implementation of all COAG agreements on the national framework for free and fair trade in gas;

  - As with the electricity reforms, Tasmania is currently exempt from having to comply with COAG gas industry reforms due to the absence of an established natural gas industry and therefore no gas infrastructure to which third party access can be provided.

- implement the strategic framework for the efficient and sustainable reform of the Australian water industry, as endorsed at the February 1994 COAG meeting;

- continue to be a fully participating jurisdiction under the Commonwealth's *Competition Policy Reform Act 1995* and the CPA;

- continue to effectively observe the agreed road transport reforms; and

- meet all its obligations under the CPA and the Conduct Code Agreement (CCA).

# *3. REFORMS UNDER THE CONDUCT CODE AGREEMENT*

## *3.1 EXTENSION OF PART IV OF THE TRADE PRACTICES ACT 1974*

The CCA sets out the agreed basis for extending the coverage of Part IV of the Commonwealth's *Trade Practices Act 1974* (TPA) to all businesses, regardless of their form of ownership.

This extended coverage arises by virtue of the Commonwealth's *Competition Policy Reform Act 1995* and Tasmania's *Competition Policy Reform (Tasmania) Act 1996*. This latter Act, which was enacted in July 1996, extends the coverage of Part IV of the TPA to all business activities in Tasmania, whether they are incorporated or unincorporated, or publicly or privately owned.

The collective purpose of this Commonwealth and State legislation is to extend the coverage of the TPA to all businesses both in the private and public sectors. The amendments make the competitive conduct rules of the TPA applicable from 21 July 1996 to business activities which were previously immune.

### *3.1.1 Identification of Section 51 Exemptions*

The CCA requires that, by 20 July 1998 (which is three years after the *Competition Policy Reform Act 1995* received Royal Assent), the Tasmanian Government must send written notice to the Australian Competition and Consumer Commission (ACCC) detailing all State legislation that:

- existed at 11 April 1995 and was enacted or made with reliance upon section 51 of the TPA (as it existed prior to amendment by the Competition Policy Reform Act); and

- will continue to operate to exempt certain anti-competitive conduct beyond 20 July 1998.

In March 1998, all Agencies and Government Business Enterprises (GBEs) were requested to undertake a preliminary analysis of the legislation for which they are responsible and identify any legislative exemptions ("section 51 exemptions") from the restrictive trade practices provisions contained in Part IV of the TPA which were in existence in Tasmanian legislation prior to 11 April 1995 and which remained in force.

A summary table of the results of the preliminary analysis of the legislation administered by the relevant Agencies and GBEs was developed based on the individual Agency and GBE responses. This information was subsequently provided to the Office of the Solicitor-General for analysis and advice as to whether the nominated Acts and their relevant provisions contained any exemptions which were in operation prior to 11 April 1995 and which fell within the terms of s.51(1)(b) of the TPA as that provision stood prior to amendment by the *Competition Policy Reform Act 1995*.

Advice received from the Solicitor-General's Office confirmed that no s.51(1)(b) exemptions were contained in Tasmanian legislation prior to 11 April 1995. The resulting analysis and advice from the Solicitor-General's Office subsequently formed the basis of the Tasmanian Government's submission to the ACCC.

# *4. REFORMS UNDER THE COMPETITION PRINCIPLES AGREEMENT (CPA)*

## *4.1 COMPETITIVE NEUTRALITY*

The primary objective of the competitive neutrality principles is to promote the efficient use of resources in public sector business activities. In particular, the competitive neutrality principles aim to eliminate resource allocation distortions arising out of the public ownership of entities engaged in significant business activities. That is, Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership and should compete on fair and equal terms with private sector businesses.

In applying the competitive neutrality principles, the CPA places Government businesses in two categories:

- significant GBEs, which are classified as Public Trading Enterprises (PTEs) and Public Financial Enterprises (PFEs) under the Australian Bureau of Statistics (ABS) Government Financial Statistics Classification; and

- significant business activities undertaken by a Government Agency as part of a broader range of functions.

In supporting Government Agencies and local government in the implementation of the competitive neutrality reforms, a number of guidelines have been published. In June 1997, following an extensive consultation process, the document *Full Cost Attribution Principles for Local Government* was finalised and subsequently released. In September 1997, the document entitled *Guidelines for Implementing Full Cost Attribution Principles in Government Agencies* was also completed and released to Agencies.

In addition to these guidelines, a seminar was conducted by the Department of Treasury and Finance in December 1997 for State Government Agencies to further facilitate a better understanding of the concepts of competitive neutrality and full cost attribution.

Since the seminar, individual meetings between Agencies and Treasury officers have provided an additional forum for the clarification of the competitive neutrality principles when necessary, to ensure that the implementation of reforms are progressed on a timely basis and are consistent with the NCP requirements.

Agencies are continuing to report to Treasury in relation to their significant business activities and advising implementation timetables for reforms. A table of the significant business activities of Government Agencies is detailed on the following page.

During 1997, the Department of Treasury and Finance conducted a series of workshops on a related Government reform initiative of competitive tendering and contracting (CTC). These workshops supplemented an earlier seminar on the policy framework for CTC and concentrated on the practical aspects of CTC implementation. The matters addressed in these workshops included:

- business case development;
- human resource management and industrial relations;
- costing of in-house bids and financial evaluation;
- tender and evaluation process; and
- contract design and specification, service level agreements, contract negotiations and managing contractual relationships.

## Significant Business Activities of Government Agencies as at 31 August 1998

| AGENCY | SIGNIFICANT BUSINESS ACTIVITY |
|---|---|
| Department of Transport | ***Land Transport Safety***<br>Road Safety<br>- conducting safety audits<br>Vehicle Standards and Compliance<br>- light vehicle inspections<br>Motor Registry Policy<br>- drivers licences and registration<br>Motor Registry Services<br>- sale of customised number plates<br>***Roads and Public Transport***<br>Delivery of Roads Program<br>Collection of Asset Information for Roads<br>Collection of Asset Information for Traffic and Bridges<br>Bruny Island Ferry Service |
| Department of Primary Industry and Fisheries | Research Stations<br>Laboratory Facilities |
| Department of Education, Training, Community and Cultural Development | Hire of School Facilities<br>School Child Care Services<br>Teachers' Residences |
| Tasmanian Audit Office | Financial Audits |
| Workplace Standards Authority | Inspection of Hazardous Plant in Workplaces |
| Department of Premier and Cabinet | Telecommunications Management Division and Computing Services |
| Tourism Tasmania | Wholesaling and Retailing of Travel |
| Tasmania Development and Resources | No Significant Business Activities |
| Department of Police and Public Safety | No Significant Business Activities |
| Department of Justice | Correctional Enterprises<br>Legal Services |
| Department of Environment and Land Management | Environmental Laboratory<br>Valuation Services |
| Department of Community and Health Services | ***Public Housing***<br>***Hospital Services - Non Clinical***<br>Building Services<br>Laundry<br>Cleaning<br>***Hospital Services - Clinical***<br>Pharmacy<br>Radiology<br>Pathology<br>Private Sector Co-location<br>PsychoGeriatric Nursing<br>***GP Services***<br>***Private Patients in Public Hospitals***<br>***Allied Health***<br>Dental Services<br>Home and Community Care<br>Ambulances<br>***Corporate Support***<br>Human Resource Operations<br>Financial Operations |
| Department of Treasury and Finance | Property Services Unit |

### *4.1.1 Government Business Enterprises*

The CPA competitive neutrality principles are entirely consistent with the reform directions which were already in place in Tasmania in relation to Government Business Enterprises (GBEs). These directions are embodied in the *Government Business Enterprises Act 1995* (GBE Act). This Act places GBEs on a more competitive footing through the processes of both commercialisation and corporatisation. The Act fulfils Tasmania's competitive neutrality commitments in relation to significant GBEs by subjecting them to:

- tax equivalent regimes, directed at offsetting any tax advantages Government businesses may otherwise receive;
- debt guarantee fees, directed at offsetting the advantage of Government guarantees on borrowings;
- dividend requirements; and
- all regulations normally applying to the private sector.

As of 1 July 1997, the remaining Tasmanian GBEs (through the *Government Business Enterprises (Amendment of Act's Schedules) Order 1997*) became subject to the full tax equivalent regime, dividend regime and guarantee fees. The full tax equivalent regime comprises an income tax equivalent, a wholesale sales tax equivalent and a capital gains tax equivalent. The only exception to this arrangement is the Port Arthur Historic Site Management Authority (PAHSMA).

PAHSMA was omitted from the application of the Tax Equivalence Regime (TER) in view of the circumstances the organisation faced as a consequence of the Port Arthur tragedy in April 1996. The organisation has, as a result of the tragedy, faced significant human resource issues, including the departure of some senior and operational staff, whilst other staff have required considerable counselling to assist in dealing with the tragedy.

Since April 1996, the PAHSMA has had to rely on considerable financial support from the Consolidated Fund to enable it to continue to provide tourism and conservation services at the site. The Government has also been reviewing the structure of the PAHSMA. Recommendations in relation to the future structure and funding of the Authority's operations will be considered by the Government during its 1998-99 Budget deliberations. A decision regarding the application of the TER to PAHSMA will be made once a decision on the future structure and funding of the Authority has been established.

#### *4.1.1.1 Community Service Obligations*

The implementation of the Government's Community Service Obligation (CSO) Policy is integral to the enhanced performance and accountability of GBEs under the GBE Act. GBEs are expected to improve performance by focusing on commercial goals. Non-commercial activities may be recognised by Government as CSOs. CSOs are purchased by the Government from the GBE so that the

provision of CSOs by the GBE will no longer compromise the achievement of the commercial objectives of the GBE. Accordingly, non-commercial activities and functions, not all of which may qualify as CSOs, are clearly identified, justified and separately accounted for.

The CSO policy ensures that the Government's social and other objectives are achieved without impacting on the commercial performance of a GBE. It also improves the transparency, equity and efficiency of the delivery of non-commercial activities.

Since July 1997, Community Service Obligation contracts detailing funding for the provision of non-commercial activities to an agreed level have been signed with the Hydro Electric Corporation, Metro Tasmania Pty Ltd and the Public Trustee.

### *4.1.2 Recent Reforms to Government Business Enterprises*

The Tasmanian Government has reviewed and reformed a number of government businesses since the signing of the CPA. These reforms are detailed below.

#### *4.1.2.1 Bulk water suppliers*

Since the last NCP Progress Report, the *North West Water Amendment Act 1998* has been passed by Parliament. This Act enables the transfer of the North West Regional Water Authority (NWRWA) to a local government joint authority. However, the legislation effecting the transfer has not yet been proclaimed. Consequently the transfer has not yet taken place. The transfer was postponed pending the outcome of the August 1998 State election and resolution of the local government council boundaries/amalgamation issues. It is expected that the NWRWA will be transferred to local government during 1998-99.

#### *4.1.2.2 Port Reform*

In July 1997, the Tasmanian Parliament enacted a package of port reform legislation comprising the *Marine and Safety Authority Act 1997*, the *Port Companies Act 1997* and the *Marine (Consequential Amendments) Act 1997*. The legislative package provides for:

- the separation of the regulatory and commercial functions of the ports;
- the establishment of Marine and Safety Tasmania (MAST) to assume the regulatory functions previously vested with port authorities;
- the full implementation of competitive neutrality principles; and
- the removal of barriers to entry for the private ownership and operation of ports.

Specifically, the package:

- establishes port companies to operate and manage the State's port facilities; and
- establishes MAST to oversee the administration and regulation of navigational and vessel safety. MAST is also responsible for managing the State's non-port marine facilities and functions.

Consistent with the intention of the NCP competitive neutrality principles, the Tasmanian ports have, since the commencement of the *Port Companies Act 1997* on 30 July 1997, become subject to Corporations Law obligations, the full tax equivalent regime, the dividend regime and guarantee fees.

#### *4.1.2.3 Metro Tasmania*

Metro Tasmania provides public urban road transport services in the metropolitan areas of Hobart, Launceston and Burnie. On 14 January 1998, the *Metro Tasmania Act 1997* and *Metro Tasmania (Transitional and Consequential Provisions) Act 1997* received Royal Assent, thereby effecting the transition of the former Government Business Enterprise, the Metropolitan Transport Trust, to a State-owned company. As a result, Metro Tasmania Pty Ltd (Metro Tasmania), as it is now called, is subject to Corporations Law obligations as well as the full tax equivalent regime, the dividend regime and guarantee fees obligations.

### *4.1.3 Competitive Neutrality Complaints Mechanism*

Clause 3(8) of the CPA requires the State Government to implement a complaints mechanism in relation to competitive neutrality matters.

In its policy statement on competitive neutrality, the Government indicated that it will be utilising the Government Prices Oversight Commission (GPOC) as the focal point for receiving and dealing with complaints against State and local government business activities in relation to the application of the competitive neutrality principles.

The *Government Prices Oversight Amendment Act 1997* was enacted in September 1997. This Act extends, *inter alia*, the role of GPOC to include the investigation of complaints against the failure of a Government body to comply with the competitive neutrality principles and associated implementation guidelines. Complaints may be lodged against a Government body when an individual believes that the Government body has contravened any of the principles and is adversely affected by such a contravention. The individual must have first attempted to resolve the matter with the Government body informally, prior to lodging a formal complaint. The scope of the complaints mechanism therefore includes Government Agencies, local government businesses, GBEs, State-owned companies and statutory authorities. As at 31 August 1998, GPOC had received no formal complaints in relation to the application of the competitive neutrality principles.

## *4.2 MONOPOLY PRICES OVERSIGHT*

The CPA requires that the State consider establishing an independent source of prices oversight advice in relation to monopoly, or near monopoly, suppliers of goods and services. Such a mechanism is necessary to ensure that monopoly providers charge prices that are "fair and reasonable" and which do not result in the exercise of monopoly market power to the detriment of consumers and businesses.

To meet this requirement, the Tasmanian Government introduced the *Government Prices Oversight Act 1995*, which came into effect on 1 January 1996. This Act established the GPOC as an independent body charged with the responsibility of conducting investigations into, and reporting on, the pricing policies of both GBEs and Government Agencies that are monopoly, or near monopoly, suppliers of goods and services in Tasmania. The *Government Prices Oversight Amendment Act 1997* further extended the coverage of the Government Prices Oversight Act to enable GPOC to conduct investigations into local government monopoly services.

The Government Prices Oversight Act provides for the prices and pricing policies of the most significant public sector monopolies in Tasmania to be automatically investigated at least once in every three years. Five GBEs were originally scheduled in the Act in this regard (the HEC, MTT, MAIB, HRWA and NWRWA). In addition, the Act provides a mechanism under which other monopoly services can be declared and therefore subject to a GPOC inquiry.

GPOC has completed investigations into the pricing policies of the Hydro-Electric Corporation (HEC) and the Metropolitan Transport Trust (MTT). Since the previous Progress Report one GPOC investigation has been completed and another two have commenced. These investigations are outlined below.

### *4.2.1 MAIB Investigation*

GPOC investigated the pricing policies of the Motor Accidents Insurance Board (MAIB) in accordance with Terms of Reference issued to the Commission in May 1997. GPOC's Final Report on the MAIB investigation was released in August 1997. The report contained the Commission's final recommendations in relation to the maximum prices to be charged by the MAIB for the three years to the end of 2000.

The major recommendations of the Commission in the Final Report were that:

- under the existing arrangements (weightings) for different types of vehicles, trucks, buses and motorcycles were not paying their share of MAIB premiums. GPOC recommended that motorists' premiums reflect the insurance risk attached to particular classes of vehicles.

  GPOC recommended small increases (less than 5 per cent) in MAIB premiums for the majority of motor vehicles (eg. cars) but recommended substantial

increases (ranging between 55 and 158 per cent) for motorcycles, trucks and medium buses.

- certain changes be made to the benefits available under the scheme. The principal changes are that:
  - eligibility for MAIB insurance be restricted to claims arising from the driving of a motor vehicle, rather than its use;
  - MAIB cover only be available for off-road or recreational class vehicles when a premium has been paid and is current for that vehicle;
  - MAIB be allowed to recover costs from uninsured vehicle owners, reject claims for persons injured while driving their own uninsured vehicle and that MAIB be allowed the right to seek indemnity from negligent third parties; and
  - all accidents be reported to the police before the MAIB accepts a claim, but that the MAIB have the discretion to waive this requirement.

The Tasmanian Government accepted the recommendations of the Final Report in relation to changes to existing policy (without significant amendment), but rejected the recommendations relating to the quantum of future premiums. With regard to premium changes, the Government opted for a transition strategy which involves the creation of four classes of vehicles, with different arrangements for premium increases for each of the four classes.

Under the amended premium structure, the maximum premium increases in the first year will not exceed 15 per cent of the former premium level for any vehicle class. Maximum premiums in the second and third years are calculated using a component based on the percentage increase in average weekly earnings in Tasmania (AWE), plus a percentage increase in premium levels not exceeding 12.5 per cent for any vehicle class.

### *4.2.2 Bulk Water Investigation*

In January 1998 GPOC was requested to undertake an investigation into the pricing policies associated with the provision of bulk water by the Hobart Regional Water Authority (HRWA), the North West Regional Water Authority (NWRWA) and the Esk Water Authority (EWA).

Both the HRWA and the EWA have recently been transferred to local government and re-established under the *Local Government Act 1993* as joint local government authorities. Both these authorities are subject to full tax equivalent, dividend and guarantee fee regimes. The NWRWA has been subject to full tax equivalent, dividend and guarantee fee regimes since 1 July 1997.

The deadline for the completion of this investigation has been set at 30 November 1998 in view of the current review of Tasmanian water legislation that is underway. The latter review is being undertaken in light of the COAG *Agreement on the Efficient and Sustainable Reform of the Australian Water Industry*.

As part of this investigation, the Commission was requested to prepare a paper by 31 August 1998 on the general water pricing principles that should apply in Tasmania. This timeframe will enable the general water pricing principles to be used by the three water authorities as the basis for their respective water pricing regimes and for these regimes to be subsequently reflected in the 1999-2000 budgets of participating councils, which will be formulated early in 1999. These actions will, in turn, assist the Tasmanian Government in meeting its obligations under the COAG agreement on water reform, which requires that a range of water reforms be introduced by 1998, including:

- the structural separation of the roles of water resource management;
- standard setting and regulatory enforcement and service provision;
- adoption of two-part tariffs for urban water, where cost-effective; and
- the introduction of arrangements for trading in water allocations or entitlements.

GPOC released the report on general water pricing principles to key stakeholders on 31 August 1998, with submissions on the proposed principles due by 21 September 1998. The report proposes a two-part tariff structure comprising a volumetric component which reflects long-run marginal costs with any revenue shortfall being recovered in the fixed component. Regional water pricing is to apply where justified and seasonal water pricing has been recommended. GPOC has also developed principles in relation to revenue adequacy of the bulk water authorities.

### *4.2.3 Electricity Prices Investigation*

GPOC conducted its initial investigation into the pricing policies of the HEC in 1996. Following the completion of this investigation and, in accordance with the *Government Prices Oversight Act 1995*, the Government set maximum price paths for retail tariffs in the *Government Prices Oversight (Electricity Prices) Order 1996* for the period January 1997 to December 1999.

The electricity reform program in Tasmania has seen the HEC structurally separated and the regulatory framework for the electricity supply industry enhanced. Further details on electricity industry reforms are contained in section 6.1 of this Report.

Under the new regulatory arrangements contained in the amended *Electricity Supply Industry Act 1995* (ESI Act), the Electricity Regulator has the power to make determinations with regard to the maximum prices that can be charged for 'declared' services provided by electricity entities (whereas under the GPOC framework, the Government determines maximum prices, following recommendations by GPOC). Services may be declared by the Electricity Regulator if the Regulator is satisfied that an electricity entity has substantial market power in respect of the service and that the promotion of competition, efficiency or the public interest requires the making of the declaration.

The new price control framework is contained in the *Electricity Supply Industry (Price Control) Regulations 1998* ("Price Control Regulations") and is largely based on the provisions of the Government Prices Oversight Act. These arrangements came into effect on 1 July 1998, coinciding with the appointment of the Government Prices Oversight Commissioner as the Electricity Regulator. In light of these arrangements, the Government Prices Oversight Act was amended to remove all references to electricity from its scope.

In April 1998, the Government initiated a second GPOC investigation into the pricing policies of the HEC, with the investigation transferring to the Electricity Regulator under the Price Control Regulations from 1 July 1998. Reflecting the new structural arrangements in the State's electricity supply industry, the investigation is to determine appropriate maximum price controls for electricity generation, transmission, distribution and retailing as well as maximum charges for system control functions for the period 2000 to around 2003.

In April 1998, GPOC released an Issues Paper highlighting the key matters that need to be resolved in determining these maximum charges and an initial set of submissions have been received. The Regulator is required to complete the investigation and publish a final report by 29 January 1999. Under the ESI Act, the Regulator must then, by order, make a determination specifying the price control mechanisms applying to the aforementioned services. The Price Control Regulations provide for a reopening of the determination in a limited set of circumstances.

## *4.3 STRUCTURAL REFORM OF PUBLIC MONOPOLIES*

The CPA structural reform principles require that an independent review be conducted before either privatising, or introducing competition to, a public owned monopoly.

Since the signing of the CPA, the Tasmanian Government has undertaken a structural review in relation to the Government's intention, at that time, to withdraw equity from the Hydro-Electric Corporation's distribution and retailing businesses. The matter is covered in more detail in section 6.1.3 of this Report.

## *4.4 LEGISLATION REVIEW*

In June 1996, the Tasmanian Government published, in accordance with the CPA requirements, a policy statement entitled *Legislation Review Program: 1996-2000 – Tasmanian Timetable for the Review of Legislation that Restricts Competition,* which established the Legislation Review Program (LRP). The LRP provides impetus to the Government's regulatory reform agenda and demonstrates its commitment to reducing the regulatory burden which, in many cases, needlessly restricts the operation of the Tasmanian economy.

Specifically, the LRP will see the review, by the year 2000, of all State legislation that restricts competition to ensure that the Government only retains those restrictions that are fully justified in the public benefit. Many existing legislative restrictions on competition impose substantial costs on consumers and society,

through either cross subsidies, barriers to market entry by new businesses, unnecessary business costs or reduced incentives for firms to innovate and improve their efficiency.

### *4.4.1 Progress with the LRP Timetable*

Since the development of the LRP timetable in 1996, a significant number of reviews have commenced in line with the review timetable.

The initial timetable, however, has been regularly updated to reflect changes in the legislation review priorities or legislative programs of Agencies as well as the rescheduling of a large number of reviews due to the failure of other jurisdictions to support national reviews of legislation. In particular, the rescheduling of legislation originally nominated for national review has resulted in a large number of reviews being scheduled in 1998 and 1999. It is considered, however, that a significant number of these reviews will be of a minor nature or will be repealed or replaced with new legislation, which will obviate the need for a LRP review. A revised timetable, complete with the status of any reviews which have been undertaken, is outlined in Appendix A.

**Progress with the LRP Review Timetable**
**as at 31 August 1998**

| Status of Reviews | 1996 | 1997 | 1998 |
|---|---|---|---|
| Acts repealed or expected to be repealed | 19 | 24 | 23 |
| Acts removed from the LRP timetable | 1 | 0 | 2 |
| Reviews deferred | 4 | 25 | 2 |
| Reviews in progress | 15 | 11 | 24 |
| Reviews not yet commenced | * 1 | 0 | 33 |
| Reviews completed | 0 | 0 | 7 |
| **Total Number** | **40** | **60** | **91** |

* Review now to be undertaken nationally.

The majority of reviews commenced in 1996 and 1997 are nearing completion and are either in the process of being implemented, considered by the Government or involve legislative changes which are pending. Treasury's Regulation Review Unit is continuing to work with relevant Agencies to ensure that the remaining 1998 reviews are undertaken in accordance with the timeframes established by those Agencies.

A major review of the following Acts (and their associated subordinate legislation) has commenced, or is scheduled to commence in 1998:

- *Plumbers and Gasfitters Act 1951*
- *Hospitals Act 1918;*
- *Inland Fisheries Act 1995;*
- *Land Surveyors Act 1909;*

- *Local Government Act 1993;*
- *Taxi Industry Act 1995;*
- *Dairy Industry Act 1994;*
- *Mineral Resources Development Act 1995*;
- *Water Act 1957* and associated primary legislation; and
- *Environmental Management and Pollution Control Act 1994.*

### *4.4.2 Major Reviews Conducted*

A number of 'major reviews' have been conducted to date. A review of existing legislation is considered to be major where it has economy-wide implications, or where it significantly affects a sector of the economy (including consumers). Details regarding a number of these major reviews are listed below.

#### *4.4.2.1 Traffic Act 1925*

The *Traffic Act 1925* contains two major components. Part III of the Traffic Act regulates vehicles used to carry goods or passengers for reward through the public vehicle licensing system. The balance of the Act provides for the registration of vehicles, the regulation of drivers, vehicle standards and the operation of vehicles.

In October 1995, the Tasmanian Government established an independent committee of review into Tasmania's public vehicle licensing. The Committee, chaired by Mr David Burton, undertook a comprehensive investigation (the "Burton Review") into the need for transport reform, which included widespread consultation, before handing its report to the Minister for Transport in October 1996.

This investigation incorporated a substantial review of the restrictive provisions of Part III of the *Traffic Act 1925*. The review found that there was a need to overhaul the archaic controls imposed on the transport industry by Part III of the Traffic Act, which are the most onerous in Australia. The restrictive, anti-competitive and protectionist nature of these controls was found to stifle innovation and increase costs to consumers.

Following the Burton Review, the Tasmanian Government introduced major reforms to the public vehicle licensing system through a suite of new transport legislation. This legislation was passed by both Houses of Parliament in late 1997 and was expected to be proclaimed in August 1998 following finalisation of supporting regulations and consequential amendments to the *Taxi Industry Act 1995*. The proclamation date has since been deferred as a consequence of the August 1998 State election.

Following the release of the Burton Committee report, the Government established a series of consultative committees with industry to develop detailed legislative proposals for reform of the public vehicle licensing system.

In July 1997, the Passenger Transport Reform Group and the Road Freight Industry Reform Group submitted detailed reports to the Minister for Transport. These reports outlined proposals for the reform of the public vehicle licensing system in line with the recommendations of the Burton Review.

Legislative changes were developed based on these reports and submitted to Parliament in October 1997. They were passed by Parliament with only minor amendment in November 1997. During the debate on the *Passenger Transport Act 1997* however, a commitment was made to transfer the regulation of luxury hire cars from the *Passenger Transport Act 1997* to the *Taxi Industry Act 1995*. However, legislation to transfer the regulation of luxury hire cars to the Taxi Industry Act was prepared and submitted to Parliament, but had not been finalised at the time the State election was called. It is expected that this legislation will be resubmitted to the incoming Government who will then determine if the *Taxi and Luxury Hire Car Industries Reform Bill 1998* will be amended or re-submitted to Parliament in its existing form.

In October 1997 the Government signed a Memorandum of Agreement with the transport industry associations which committed the parties to work cooperatively to develop the detailed regulations, administrative systems and transitional arrangements to give effect to the new legislation. A joint industry-government group has been formed to oversee the implementation of this Agreement. The group is close to completing its work, with a suite of regulations having been prepared that will give effect to the new system of public vehicle regulation.

The new system is based on:

- the abolition of public vehicle licences for all forms of transport;
- intrastate aircraft operations being governed only by Commonwealth legislation and appropriate State environmental or public health legislation (eg in relation to aerial spraying);
- road freight operations being subject only to quality regulation of vehicles;
- the introduction of voluntary operator accreditation schemes based largely on alternative compliance schemes designed to provide real incentives for quality operators;
- public passenger carrying vehicles to be subject only to quality controls, and to the screening of drivers as “fit and proper” persons; and
- regular passenger transport services to be registered with the Department of Transport, with core services (those considered essential by Government to meet the community’s social mobility needs) that are not provided by the market being provided under contract to Government, with contracts to be competitively tendered.

One of the key issues in relation to the *Passenger Transport Act 1997* which remains to be resolved is the transitional arrangements for regular passenger transport services. To this end, specific proposals are being developed through the joint industry-government group identified above. Whilst it is anticipated that agreement on this issue will be reached shortly, its resolution is not considered

crucial to the proclamation of the Passenger Transport Act as regular passenger transport services required by the Government may be provided on a continuing basis under contract.

At the recent State election, both major political parties indicated their intentions to continue with the current industry-government negotiations so as to bring the public vehicle licensing reform process to a satisfactory conclusion. The Tasmanian Transport Council, the peak transport industry organisation, has similarly committed itself to the continuation of this consultative process.

Priority attention is now being given to completing the review of the remainder of the Traffic Act as well as the *Motor Vehicles Taxation Act 1981*, the *Transport Act 1981* and their associated Regulations. To this end, new traffic and vehicle legislation will be developed during 1998 based on national road transport laws (other than dangerous goods) emanating from the National Road Transport Commission process.

#### *4.4.2.2 Motor Accidents (Liabilities and Compensation) Act 1973*

A review of the *Motor Accidents (Liabilities and Compensation) Act 1973* was undertaken during 1997. This review focussed on the impact that the monopoly role of the MAIB has upon the delivery of compulsory third party personal (CTP) insurance to Tasmanian motorists.

In conducting the review, the review body found that:

- the statutory monopoly for the provision of CTP insurance is justified in the public benefit and therefore should be maintained; and
- the power of the Board to enter into arrangements or agreements with other insurers is not justified and should be replaced with a provision which only provides the Board with a power to reinsure.

The recommendations of this review were accepted by the Government in early April 1998 and a minor legislative change will need to be made to put these recommendations into effect.

#### *4.4.2.3 Apple and Pear Industry (Crop Insurance) Act 1982*

The *Apple and Pear Industry (Crop Insurance) Act 1982* was scheduled for review as the Fruit Crop Insurance Scheme provided for under the legislation is compulsory. This has the effect of putting in place what is, in essence, a statutory monopoly. It also restricts the ability of Tasmanian apple and pear growers to manage their crop related business risks independently.

In undertaking a major review of this legislation, the review body determined that, while the scheme has some benefits, they do not outweigh the costs imposed by the scheme upon the apple and pear industry and the general community. Consequently, the Review Body recommended in its Regulatory Impact Statement (RIS) that the continuation of the Act and its compulsory powers

cannot be justified in the public benefit. The recommendations of this review are being considered by the Government.

*4.4.2.4 Forestry Act 1920*

The *Forestry Act 1920* establishes Forestry Tasmania and provides for the management and protection of forests. The Act was scheduled for review on the basis that it contains restrictions on competition which include provision for the granting of forest permits, licences and the registration of sawmills and timber brands.

Following the engagement of a consultant to undertake a review of the Act, it has been recommended that a substantial amount of the Forestry Act be repealed, including the majority of Part IV, which provides for the granting of forest permits, licences and the registration of sawmills and timber brands. Provisions relating to timber classification officers were also recommended for repeal.

The remaining anti-competitive provision relates to the provision that Forestry Tasmania make available each year for the veneer and sawmilling industries, a minimum aggregate quantity of 300 000 cubic metres. However, this requirement has been extensively reviewed in the context of the Tasmanian Forest and Forest Industries Strategy (TFFIS) and the Regional Forest Agreement (RFA). Further, in a recent KPMG Report to Forestry Tasmania entitled, *National Competition Policy Issues*, Dr David Cousins commented that:

*"the setting of a minimum volume requirement by itself is unlikely to reduce competition in the relevant markets. Indeed, if in fact the minimum serves as an effective constraint so that more is supplied than would otherwise be the case, it may increase competition, especially in downstream markets."*

The review processes conducted under both the TFFIS and more recently the RFA demonstrated that the minimum supply requirement was justified in the public interest. It determined that benefits associated with ecologically sustainable development and economic and regional development, including employment and investment growth, outweigh any costs imposed on the community as a result of the minimum supply requirement.

It is expected that the Government will consider the recommendations of the review and introduce amendments to the Forestry Act accordingly.

### *4.4.3 Review Processes*

In assessing a jurisdiction's performance for the second tranche of competition payments, the National Competition Council (NCC) has indicated that the council will be looking closely "at the bona fides of reviews". A key part of this will include the actual conduct of the reviews.

The review processes for the LRP are outlined in detail in the document, *Legislation Review Program: 1996-2000 – Tasmanian Timetable for the Review*

*of Legislation that Restricts Competition.* A key feature of these processes is the determination of whether an identified restriction is classified as a major or minor restriction on competition. The resulting review process is then tailored to the level of the restriction on competition. In the case of major restrictions on competition (those that have economy wide implications or significantly affect a sector of the economy), the need to have an independent, open, rigorous and transparent justification process is a paramount consideration when establishing the review.

### *4.4.4 National Reviews*

Clause 5 of the CPA specifies that where legislation has a national dimension or effect on competition (or both), consideration may be given to conducting a national review. If a national review is determined to be appropriate, the Tasmanian Government is required to consult with other jurisdictions that have an interest in the matter before determining terms of reference or appropriate review bodies.

As noted in the previous Progress Report, Tasmania initially scheduled a large number of Acts for national or joint jurisdictional review. This legislation generally fell within the following three areas:

- uniform, complementary, application, template or mirror legislation (including national codes and standards);
- State legislation where reforms have "spillover" effects to other jurisdictions; and
- legislation where a joint or national approach to the review would be beneficial to all relevant jurisdictions.

However, a number of other jurisdictions did not support national or joint jurisdictional reviews for a large number of these Acts.

Accordingly, the majority of the Acts originally scheduled for national review have now been listed for State-based review. This has resulted in the number of Acts listed for review in 1998 and 1999 being considerably greater than originally proposed.

Notwithstanding this, national reviews are currently being progressed, or are scheduled, in the following areas:

- Agricultural, veterinary and industrial chemicals;
- Food standards;
- Legal profession;
- Pharmacy;
- Drugs, poisons and controlled substances;
- Travel agents;

- Building Code of Australia;
- Air navigation;
- Financial legislation (companies, securities, futures and consumer credit); and
- Trustee companies.

The potential for additional reviews is also increasing as other jurisdictions now begin to realise the benefits of taking a national approach to a number of reviews.

### *4.4.5 LRP Gatekeeper Arrangements*

Over 250 legislative proposals have been assessed under the "gatekeeper" provisions of the LRP since its inception in June 1996. It has been pleasing to note that several new Acts introduced have resulted in significant reform in areas which have previously been highly regulated.

The most prominent area where this has occurred has been in relation to the regulation of health professions. A major legislative reform program has been undertaken by the Department of Community and Health Services (DCHS) which has resulted in the Government reforming legislation governing the practice of optometrists, medical practitioners, nurses, chiropractors, osteopaths, physiotherapists, pharmacists, psychologists and dental prosthetists. This program has removed the large majority of restrictions on the competitive conduct associated with these occupations. Examples of reforms already approved include the deregulation of optical dispensing, the substantial removal of advertising controls for some occupations and reduced regulatory controls on dental prosthetists, chiropractors, osteopaths and psychologists.

DCHS also developed new legislation to replace the *Public Health Act 1962*, which represented an outdated approach to public health. The *Public Health Act 1998* and the *Food Act 1998*, which represent modern public health practice, were prepared to replace this outdated legislation. The new Public Health Act takes a risk-based approach to public health matters, focussing on autonomy and self-regulation, as well as a more preventative approach to public health. A comprehensive RIS was prepared justifiying the restrictions contained in this legislation and significant public consultation was undertaken.

The gatekeeper provisions of the LRP are an effective mechanism to ensure that proposed primary legislation does not unduly restrict competition or have a significant negative impact on business. This was demonstrated by the assessment of the *Residential Tenancy Bill 1997* under the LRP gatekeeper arrangements. Originally, the Bill proposed the establishment of a centralised security deposit arrangement to be managed by a Residential Tenancy Authority. The proposal was seen to be unnecessarily restrictive and that the objectives of the legislation could be achieved in a much simpler manner.

By applying the guiding principle for proposed legislation, it was demonstrated that the requirement for a monopoly statutory authority for the collection of security deposits was not in the public benefit. As a result, the establishment of

the monopoly authority was replaced with a set of legislative provisions that simply prescribed the requirements regarding the payment of security deposits and the rights and responsibilities of landlords and tenants in this regard. The resultant legislation achieved the objectives of the original proposal with a minimum of regulation.

Another area of significant reform has been in the development of fisheries management plans for the major fisheries in the State, including the rock lobster, abalone and scalefish fisheries. These plans, which are issued under the *Living Marine Resources Management Act 1995*, were the culmination of a number of years of discussion and negotiation between the Government and the industry. The plans outline arrangements to ensure that the fisheries are managed in a sustainable manner and the industry is viable in the long term. They include, in line with NCP legislation review requirements, a detailed justification of the costs and benefits of the proposals and have enabled the Tasmanian community to provide informed comment on the proposed management arrangements for the relevant fisheries.

## *4.5 THIRD PARTY ACCESS*

As outlined in the previous NCP Progress Report, the Commonwealth's *Competition Policy Reform Act 1995* amended the TPA to provide for a regime for third party access, under certain conditions, to services provided by means of significant infrastructure facilities. However, this access regime does not apply to a service provided by a facility where the State or Territory in whose jurisdiction the service is situated has established an "effective" access regime which covers that facility.

At this stage there are no State-based legislative access regimes in place in Tasmania, as there has been insufficient infrastructure in the State of the required nature to justify the introduction of such a regime. Consequently, Tasmania relies on the provisions of the Commonwealth's access regime under Part IIIA of the TPA.

In relation to the electricity supply industry, as a central element of the reform process, the Government introduced the *Tasmanian Electricity Code* (TEC), which provides for, *inter alia*, third party access to the Tasmanian transmission and distribution network (see 6.1.2) in a similar way in which the National Electricity Code provides the access regime in the NEM. It is intended that Tasmania's network business will shortly provide an access undertaking to the ACCC for acceptance under Part IIIA of the TPA.

# 5. LOCAL GOVERNMENT AND NCP REFORMS

## 5.1 GENERAL

In June 1996, the Tasmanian Government published a policy statement, entitled *Application of the National Competition Policy to Local Government,* on the application of the CPA principles to particular local government activities and functions. This statement was developed in close consultation with local government and there is ongoing consultation with local government regarding its implementation.

The application of the principles to local government has been pursued in terms of the timetable outlined in the Application Statement in relation to competitive neutrality, legislation review and monopoly prices oversight.

Progress in relation to the application of competitive neutrality, legislation review and monopoly prices oversight since the last NCP Progress Report is outlined below.

## 5.2 COMPETITIVE NEUTRALITY

As outlined in the previous NCP Progress Report, progress has been made in relation to the implementation of the competitive neutrality principles to local government. Specifically, all councils were required to identify by 31 December 1996, their significant business activities to which full cost attribution would apply.

As part of this process, it became apparent that local government was embracing the competitive neutrality principles at a much quicker pace than was envisaged when the policy statement was originally developed. This change in priorities arose as councils began to realise the advantages that competitive neutrality could deliver in increasing the efficiency of council operations. This was demonstrated by the fact that 18 of the 29 councils decided to apply full cost attribution to all of their business activities (rather than just those regarded as "significant"). The majority of the remaining councils chose to apply full cost attribution to their public trading enterprises (water and sewerage services) and road maintenance.

The second stage of implementation required the lists of significant business activities to be reviewed by a "peer group" (established by the Local Government Association of Tasmania (LGAT) in conjunction with the Department of Treasury and Finance), in order to recommend to the former Minister for Finance, by 31 March 1997, whether the lists should be accepted or amended. An information package containing the recommendations from the peer group on the significant business activities of Tasmanian councils was provided to the former Minister for Finance on 11 April 1997 by the LGAT.

This exercise highlighted the advantages that competitive neutrality can deliver in increasing the efficiency of council operations and has established the framework for the application of competitive neutrality principles to the new councils.

However, given the impact of the local government amalgamation program proposed in the former Government's *Directions Statement*, it was necessary to temporarily suspend the current timetable for applying the competitive neutrality principles to local government in May 1997. It was recognised that there was little benefit to local government in proceeding with the timetable until the new structure for Tasmanian councils was finalised, given that many of the NCP issues would be different following the amalgamation exercise.

The NCC was advised that the amalgamation of local government on the scale proposed was expected to result in more significant microeconomic reform than would have been achieved by the continued implementation of the competitive neutrality principles to smaller local government bodies. The NCC was also advised that the amalgamations would result in fewer, but larger, local government bodies and presented the opportunity for the wider application of the NCP competitive neutrality, legislation review and structural reform principles.

Notwithstanding these above issues, the NCC deferred consideration of the 1998-99 component of Tasmania's first tranche assessment, pending greater evidence that Tasmania is on target with the application of the competitive neutrality principles to local government. In particular, the Council noted that the process of local government amalgamations had delayed the implementation of competitive neutrality reform in the short term.

In May 1998, Tasmania reported to the NCC that it would negotiate with local government to seek the agreement of the new councils to reinvigorate the application of NCP to local government. Based on this commitment, the NCC recommended to the Commonwealth Treasurer that Tasmania receive the 1998-99 component of the first tranche assessment (worth approximately $20 million). The Commonwealth Treasurer advised the former Premier, the Hon Tony Rundle MHA on 19 August 1998 that the Commonwealth would provide NCP payments in accordance with the recommendations made by the NCC. However, the Council has noted that progress in line with the timetable Tasmania has set itself will be important for the second tranche assessment.

In view of the NCC's concerns in relation to the application of NCP to local government, the Department of Treasury and Finance has been negotiating with the Local Government Association of Tasmania (LGAT) in relation to a revised timetable for the application of the competitive neutrality principles to local government. However, these negotiations have stalled due to a ruling by the Supreme Court in early August 1998 that the proposed local government elections scheduled to be held in late August would have been unlawful.

It is also proposed to obtain a commitment from local government to reform financial relationships between the State and local government. These reforms will address the removal of taxation, rate and charging exemptions, subsidies, concessions and levies. The aim of the reforms is not to lower the cost of services (although this may arise), nor to re-assign taxing powers. The aim is to generate greater transparency in financial relations and promote more efficient resource allocation, consistent with the micro-economic reform principles which underpin NCP.

In pursuit of further micro-economic reform at the national level, the Commonwealth and States are in the process of negotiating reciprocal taxation arrangements. This will involve a national income taxation equivalent regime and full reciprocal taxing between the Commonwealth and the States for indirect taxes. The Commonwealth has already held discussions with the Australian Local Government Association (ALGA) concerning the extension of these arrangements to local government. Reform of financial relations between the State and local government constitute an obvious element of a national reciprocal taxation regime.

The National Taxation Equivalent Regime (NTER) is planned to commence on 1 July 1999, with full reciprocal taxation expected to be in effect the following year. As part of the negotiations with the LGAT in relation to the re-invigoration of the application of NCP to local government, it is proposed to also obtain a commitment from local government that the implementation of State-local financial relations would occur within the first year of the NTER. The reform of existing State-local financial relationships is a significant one, both in terms of progress that has already been made in relation to the NCP principles, in terms of the central thrust of the former Premier's *Directions Statement* and in terms of the national move towards reciprocal taxation arrangements.

Despite the suspension of the timetable for the application of NCP to local government, there is evidence of continuing progress toward the implementation of the competitive neutrality principles. As reported in the *National Competition Policy Progress Report: April 1995 to 31 July 1997*, some councils have commenced corporatisation in some areas, most notably the Hobart City Council, which has recently taken steps to corporatise its entire workforce (now called Civic Solutions). Also Hobart City Council has adopted full cost attribution for virtually all of its other activities, as have Burnie and Glenorchy City Councils. Clarence and Launceston are also close to adopting full cost attribution for their business activities. There are also some examples where service providers have been separated from service purchasers, competitive tendering is being utilised and corporate business structures are being established. A number of businesses such as the Hobart Aquatic Centre, the Derwent Entertainment Centre, the Tasmanian Travel Centre recently acquired by the Burnie City Council, and a number of other smaller operations, such as the Killafaddy Sale Yards and Launceston's four pools, are run as separate businesses units on a commercial basis.

More importantly, the Hobart Regional Water Authority (HRWA) and the Esk Water Authority (EWA) have recently been transferred from State Government to local government and established under the *Local Government Act 1993* as joint local government authorities. Both these authorities are subject to full taxation equivalent, dividend and guarantee fee regimes. Legislation has been passed to enable the North West Regional Water Authority (NWRWA) to be transferred to local government during 1998-99. Similarly, the Dulverton Regional Waste Management Authority, with its four participating owner councils, has taken steps to implement provisions for taxation equivalents and dividend returns on capital invested.

## *5.3 PRICES OVERSIGHT*

The Government's local government application statement indicated that local government monopoly providers were to be brought under the prices oversight jurisdiction of GPOC.

As outlined earlier, the *Government Prices Oversight Amendment Act 1997*, which came into effect in early September 1997, extends the coverage of the *Government Prices Oversight Act 1995* to include local government monopoly services.

In this respect, and as indicated in section 4.2.2, GPOC has been requested to undertake an investigation into the pricing policies associated with the provision of bulk water by the HRWA, the NWRWA and the EWA.

## *5.4 TREATMENT OF LOCAL GOVERNMENT BY-LAWS UNDER THE LRP*

As outlined in the previous Progress Report, all by-laws made under the former *Local Government Act 1962* remain in force under the new *Local Government Act 1993* (to the extent that they are consistent with the new Act) for a period of 5 years, expiring on 17 January 1999. As there is no provision to amend these existing by-laws, changes to by-laws made under the old Act can only be made by making new by-laws under the current Local Government Act.

The Local Government Office (LGO) of the Department of Premier and Cabinet has implemented procedures for the review of all proposed or existing by-laws to ensure that any restrictions on competition are fully justified in the public benefit. The *By-Law Making Procedures Manual* was released in August 1997 and represents the by-law section of the LRP program. All by-laws proposed since that date have been required to comply with the new procedures.

A number of councils have been progressively reviewing their by-laws, several of which have subsequently been repealed. As a result there has been a continued decline in the overall number of by-laws.

Tasmanian councils have also been encouraged to pursue the repeal of their obsolete by-laws and replace them, where appropriate, with governance orientated by-laws which comply with NCP principles. To this end, a repeal by-law was gazetted in May 1998 which repealed 38 Hobart City Council by-laws (including the repealing by-law itself).

In addition, any reduction in the number of local government authorities would provide a unique opportunity to reduce significantly the number of local government by-laws. Section 151 of the Local Government Act requires a new council created by restructuring to adopt, within 14 days, those existing by-laws which it requires for its ongoing administrative purposes, while all other by-laws will automatically cease to have effect, obviating the need for their review.

It was proposed to obtain local government's agreement to not adopt any by-laws made under the old *Local Government Act 1962*. This agreement would also

have required the review of all by-laws proposed to be adopted by the amalgamated councils to ensure that they comply with the NCP Legislation Review requirements. It is expected that this would have resulted in a reduction in by-laws from approximately 760 at present to about 100.

# *6. SECTOR SPECIFIC REFORMS*

## *6.1 ELECTRICITY INDUSTRY REFORMS*

The electricity supply industry has undergone significant reform since August 1997. In implementing these reforms, the Tasmanian Government has worked to ensure that it has complied with all the relevant NCP requirements, recognising that compliance with these requirements is critical if Tasmania is to fully participate in the NEM.

Specifically:

- the decision to proceed with the implementation of Basslink and thereby join the NEM requires the Government to ensure that the State complies with the NCP requirements for entry into the NEM; and
- the decision to withdraw substantial equity in the Hydro-Electric Corporation (HEC) by the former Government through the sale or lease of the transmission, distribution and retail businesses required the Government to have regard to the structural reform principles contained within the NCP Agreements.

It should be noted that the NCC has confirmed that, while Tasmania remains not interconnected with the national grid, it is not regarded as a "relevant jurisdiction" for the purposes of the COAG and NCP Agreements regarding the development of the NEM.

### *6.1.1 Entry to the NEM via Basslink*

Participation in the NEM is subject to compliance with the COAG Agreements on electricity reform.

A major requirement is the need to structurally separate the generation and transmission elements of the HEC. The NCC has indicated that, at a minimum, there must be complete separation of generation and transmission, as well as ring-fencing and separate accounting for the retail and network businesses within distribution.

This requirement has been met by the disaggregation of the HEC. In April 1998, the Tasmanian Parliament approved, under the *Electricity Companies Act 1997*, the establishment of a single distribution/retail company (Aurora Energy Pty Ltd) and a single transmission company (Transend Networks Pty Ltd), with the Hydro-Electric Corporation responsible for electricity generation activities and system control (ring-fenced). The two new companies have been established as publicly-

owned entities that operate under Corporations Law. The HEC remains a GBE under the GBE Act.

This disaggregation was complete by 1 July 1998. A set of inter-entity contracts (between the HEC, Transend and Aurora) has been developed to cover network and connection agreements and energy sales. Amendments to the *Electricity Supply Industry Act 1995* provide that a generator with substantial market power (in generation) is not permitted to hold a retail licence. This prevents the HEC from acting as a retailer in Tasmania. All retail contracts, including those of the major industrial customers such as the smelters, have been allocated to Aurora.

### *6.1.2 Separation of the HEC distribution and retail businesses*

The Government commissioned a NCP structural review of the HEC's distribution and retail businesses in October 1997. This was required because at that time the Government had the intention of pursuing the sale or lease of the HEC's transmission and distribution/retail businesses.

The Review was undertaken by a Committee consisting of Mr Andrew Reeves (Government Prices Oversight Commissioner) and Mr Paul Breslin (Director, ACIL Economics). The Committee's report, submitted in December 1997, contained recommendations relating to:

- the form of separation of distribution and retail businesses (including recommendations regarding ring-fencing);
- the nature of pricing and third-party access regulation required for the distribution business;
- the powers of the pricing regulator;
- the consolidation of regulatory functions relating to the Tasmanian ESI;
- the regulation of retail prices; and
- the payment of Community Service Obligations.

The Government accepted the majority of the recommendations of the Review, particularly in relation to establishing appropriate regulatory arrangements for disaggregation. The Government tabled in Parliament a paper that provides a broad overview of the regulatory arrangements that have been developed to apply in the Tasmanian electricity supply industry following the HEC disaggregation.

A key feature of the Government's new regulatory arrangements is that the price and non-price regulatory functions relating to the Tasmanian electricity supply industry have been consolidated with the Regulator under the *Electricity Supply Industry Act 1995* (ESI Act), with the Government Prices Oversight Commissioner being appointed as the Regulator. The Regulator is independent of Government and is responsible for administering all pricing and access issues related to the electricity industry in Tasmania (prior to the State joining the NEM).

The detailed regulatory arrangements are contained in the TEC. The TEC is largely based on the National Electricity Code, and contains several additional chapters, particularly in relation to regulatory arrangements for retail pricing. Consideration is being given to submitting the TEC to the ACCC for authorisation under Part VII of the TPA.

In relation to structural issues, the Review concluded that, prior to the introduction of a fully competitive electricity market in Tasmania, the distribution business could be conducted as a ring-fenced business within an integrated distribution/retail business. The Review further recommended that, following the introduction of competition, distribution and retail should be carried out by separate legal entities.

After careful consideration, the Government decided not to accept the latter recommendation and, as noted above, established Aurora Energy Pty Ltd as a single distribution/retail business. The Government formed the view that, on balance, it was not necessary to require the distribution and retail businesses to be legally separated once competition is introduced.

The Government made this decision for the following reasons.

- The separation of distribution and retail businesses is not consistent with the structure in other States. New South Wales, Victoria and South Australia, the major foundation members of the NEM, have not required such separation.
- Separation would result in the initial individual distribution and retail businesses in Tasmania being comparatively small relative to the mainland firms against which they would have to compete in a national market. This is likely to leave these businesses at a competitive disadvantage and therefore subject to possible early take-over by mainland or international firms.
- Even if the distribution and retail businesses were disaggregated, there would be nothing to stop the distribution business, in the longer term, from seeking a retail licence in another NEM jurisdiction and then operating that retail business in Tasmania in conjunction with its distribution business.
- The recommended separation will impose additional costs, which could be expected to lead to a lower sale price for the distribution and retail businesses.
- The current NEC requirements relating to the ring-fencing of the distribution and retail activities within a single electricity business are considered sufficient to ensure that electricity consumers are not disadvantaged.

The central issue with respect to the Review's recommendation that the distribution and retail businesses be legally separated once competition is introduced relates to the controls that are required to ensure that the existence of an integrated distribution/retail business does not inhibit the establishment of new retailers in Tasmania. In this respect, the Government's view is that this objective can be achieved by requiring the appropriate ring-fencing of the distribution business within the integrated entity. The Government has conveyed the reasons for its decisions in this area to the NCC.

In this context, there has been some preliminary consideration of the contestability arrangements that would be needed as Tasmania transitions to the NEM. The Government is confident that the overall electricity reform package will ultimately provide a comprehensive framework for the development of effective competition in electricity retailing within Tasmania, once Tasmania is part of the NEM.

It should be noted that, in developing the detailed regulatory arrangements for the Tasmanian electricity industry, the GPOC Commissioner has been involved in developing the ring-fencing arrangements that will apply to the distribution/retail business. Naturally, the Government will maintain a watching brief on the efficacy of the enhanced regulatory regime that it proposes to establish and will act if evidence does come to light that indicates that the ring-fencing arrangements do not result in efficient outcomes for Tasmanian electricity users.

Nevertheless, the Government recognises that it is possible, between now and when Tasmania joins the NEM, that a change could be made to the NEC that would require the legal separation of the distribution and retail businesses, similar to the requirements in the natural gas industry under COAG's gas reforms. If this were the case, the Government would need to ensure that Aurora Energy is restructured to comply with such a requirement when Tasmania joins the NEM.

### *6.1.3 Separation of the HEC transmission business*

As noted above, in June 1998, the Tasmanian Parliament approved the transfer of the HEC's transmission assets to a single transmission company, called Transend. The TEC provides for the regulation of this monopoly business in the same manner as occurs in other mainland States under NEM arrangements. That is, the network pricing arrangements that will apply to Transend will be fully consistent with the regulatory model for transmission contained in the NEC.

In this regard, in establishing a separate transmission company that is a natural monopoly, Tasmania has followed well established national precedents that are fully consistent with NEM requirements and NCP principles. Consequently, the Government did not consider that it was necessary to undertake a NCP structural review of transmission prior to either the sale of the HEC's transmission business or Tasmania's entry into the NEM. It is widely agreed in the national market context that the controls relating to transmission businesses embodied in the NEC are sufficient (regardless of whether it is privately or publicly owned) to ensure that its natural monopoly powers are not misused.

The Government has consulted with the NCC on this matter. The NCC agreed with the Government's view that a structural review of the HEC's transmission business was not necessary, given the intention to adopt NEM-based structural and regulatory arrangements for this business.

## 6.2 GAS INDUSTRY REFORMS

Under the NCP gas reform arrangements, relevant jurisdictions are required to establish a national framework for free and fair trade in natural gas. In particular, the gas reforms required the establishment of third party access arrangements that apply to specified gas pipelines.

The National Third Party Access Code for Natural Gas Pipelines was finalised in late 1997. Tasmania signed the Natural Gas Pipeline Access Agreement along with all other jurisdictions at the COAG meeting held on 7 November 1997.

As the only party to the Intergovernmental Agreement without an established natural gas industry and therefore no gas infrastructure to which third party access can be provided, Tasmania has been treated as a special case. In particular, Tasmania is exempt from having to comply with the obligations of the Agreement until approval for a natural gas pipeline in the State is granted or before the commencement of a competitive tendering process for a natural gas pipeline in the State.

The NCC has acknowledged Tasmania's unique position under the Agreement and has indicated that it does not intend to assess Tasmania's implementation of gas reform arrangements for the purposes of competition payments until the advent of a natural gas industry in the State.

The Tasmanian Government intends to implement new gas access legislation and repeal a number of existing gas Acts which are no longer relevant or that potentially conflict with the national gas reform initiatives. This legislation consists of the following Acts:

- *Gas Franchises Act 1973;*
- *Hobart Town Gas Company Acts 1854* and *1857*;
- *Hobart Gas Company Act 1977*;
- *Launceston Gas Company Act 1982*; and
- *Launceston Gas Company Loan Guarantee and Subsidy Act 1976*.

The Government considers that these arrangements will create an appropriate investment climate for potential investors in a future Tasmanian gas industry, as well as removing the requirement to review a number of pieces of anti-competitive legislation from the Government's Legislation Review Program.

## 6.3 WATER INDUSTRY REFORMS

The Tasmanian Government is committed to implementing efficient and sustainable water industry reforms, which were agreed at the February 1994 COAG meeting and subsequently included in the package of NCP and related reforms agreed at the April 1995 meeting of COAG.

The water industry reforms principally require the implementation of pricing reforms, with greater emphasis on user pays and cost recovery principles, clearer

definition of water entitlements (including the allocation of water for the environment) and the development of arrangements for trading in water entitlements. The benefits of these reforms will extend beyond those derived from competition policy, with significant positive impacts on community welfare and the environment expected in the longer term.

While States and Territories did not have to meet any specific requirements in relation to water reforms under NCP in order to qualify for the first tranche of NCP payments, a number of water reforms must be completed or, in some cases, be substantially progressed in order to qualify for the second and third tranche payments.

The Government is actively working to implement the major water reform requirements in Tasmania, including the review of existing water legislation and the development of policies to address the following issues:

- the fully integrated management of the State's water resources;
- the establishment of trading in water entitlements;
- the provision of water allocations for the environment;
- the introduction of cost reflective water pricing;
- the development of tariff systems for urban water service delivery;
- the devolution of irrigation scheme management; and
- formalised catchment management planning.

Two groups have been established to oversee and progress the water reforms required for receipt of the second tranche of NCP payments. These include:

- the Ministerial Water Resources Committee - comprising the Ministers for Primary Industry and Fisheries (Chair); Environment and Land Management; Local Government and Energy; and
- the Inter-departmental Water Policy Committee - comprising representatives from the Departments of Premier and Cabinet (Chair), Primary Industry and Fisheries, Environment and Land Management, Treasury and Finance, Tasmania Development and Resources, the Office of Local Government and the Office of the Minister for Energy.

Other groups have been established as necessary to progress particular reform projects and include, for example:

- the Department of Primary Industry and Fisheries' Project Team on water legislation review; and
- the Inter-Agency Working Group on Licensing of Water Entitlements - comprising representatives of the Departments of Primary Industry and Fisheries (Chair), Environment and Land Management, Mineral Resources Tasmania and the Hydro-Electric Corporation.

Following announcement in the former Premier's 1997-98 Budget Speech that the Government will introduce a Bill to replace the *Water Act 1957* and associated water management legislation in late 1998, a new "Water Management Bill" has been drafted. The Bill will provide for:

- new institutional arrangements for water management in Tasmania;
- improved equity in water pricing and allocation;
- tradeable water rights;
- formal allocations of water for the environment; and
- strategic planning for water use and development at the State and local level.

A second round of major consultation on the principles included in the new Bill was completed in May/June 1998.

The new legislation has been revised in light of information gained through the consultation program, with the objective of having a draft Bill ready for public consultation following the August 1998 State election.

### *6.3.1 Water Reforms Implemented Since the Last Progress Report*

#### *6.3.1.1 Institutional Arrangements*

*Bulk Water Supplies*

As noted in the last Progress Report, ownership of the State Government's Hobart Regional and North Esk Regional-West Tamar Water Supply Schemes has been transferred to local government joint authorities established under the *Local Government Act 1993*.

In November 1997, Parliament passed the *North West Regional Water (Arrangements) Act 1997*, continuing this process of the separation of the role of the provision of water services from the State. The Act provides for the establishment of a third local government joint authority to supply bulk water to urban and industrial consumers on the north west coast. The new North West joint authority is expected to become operational during 1998-99.

The establishment of the three bulk water authorities comprising the Hobart Regional Water Authority, the Esk Water Authority and the North West Regional Water Authority, will mean that virtually all of the urban water supply, sewerage and drainage services in Tasmania are provided by local government.

*Prosser River Water Supply Scheme*

Operation of the Prosser Water Supply Scheme was leased to the Glamorgan-Spring Bay Council on an annual basis commencing in 1997-98. The Scheme is the last urban water supply scheme in State Government ownership. The lease

was renewed for 1998-99, pending further discussions on the transfer of the scheme.

*Government-owned Irrigation Schemes*

The Rivers and Water Supply Commission, which is a GBE, manages the three Government-owned irrigation schemes in the State namely, the Cressy-Longford, South East and Winnaleah schemes. The Commission has contracted consultants to investigate, among other things, the relative merits of alternative management structures for the Schemes. The consultancy commenced in January 1998 and is expected to be completed by November 1998.

Once the consultancy is completed, the Commission will use the information contained in the consultant's report to set water prices and establish appropriate asset management plans for the schemes. It is expected this information will, in turn, form the basis for the future management arrangements for the scheme.

To date, the consultancy has provided:

- draft asset management plans for the schemes;
- asset consumption costs as renewals annuities for use in price setting; and
- a comparison of commercialisation, corporatisation and privatisation options for future scheme management.

*Performance monitoring*

Tasmania has worked closely with the SCARM Taskforce on COAG Water reform to implement appropriate performance monitoring programs for its water service providers.

Hobart Water has commenced participating in the Water Service Association of Australia's performance monitoring program for major urban water authorities. Esk Water and the North West Regional Water Authority are participating in the development of a performance monitoring system for non-major urban water authorities. The Rivers and Water Supply Commission has agreed to the participation of the three Government irrigation schemes in the national performance monitoring system currently under development.

*6.3.1.2 Water Pricing*

*Bulk Water Authorities*

A two-part tariff system has been implemented by Hobart Regional Water Authority and the pricing policy of the other two major urban water suppliers is under review.

As outlined in section 4.2.2, bulk water pricing (prices charged by the three regional water supply authorities) is the subject of a review by GPOC which commenced in January 1998. A draft report on pricing principles was released to key stakeholders by GPOC in August 1998. GPOC organised a seminar on the

Water Pricing Guidelines approved by the Agricultural Resource and Management Council of Australia and New Zealand (ARMCANZ) in February 1998. The water pricing guidelines were subsequently endorsed by the NCC as part of its assessment of jurisdictional progress on this aspect of the COAG framework. A Final Report on this investigation is due by 30 November 1998.

*Rural Water*

A study is underway to determine the direct costs incurred by the Department of Primary Industry and Fisheries and other Government Agencies in managing water resources. This information will be used to establish an appropriate chart of accounts so that the various components of these costs can be more readily identified and monitored.

The current pricing system for rural water outside the irrigation scheme districts is being reviewed as part of the current review of Tasmania's water legislation. The new pricing system, which is expected to be established by the new water management legislation, will be cost reflective, consistent, equitable and, where appropriate, based on water consumption.

Within the Government irrigation schemes, water prices have been progressively increased to fully meet the operating, maintenance, administration and asset consumption costs by June 2001 in accordance with the Rivers and Water Supply Commission's business plan. One of the three schemes achieved this level of cost recovery in 1996-97 and the other two scheme are expected to achieve cost recovery in 1999-2000.

*6.3.1.3 Water Entitlements*

*Water Allocations*

A new method for licensing water users in Tasmania was developed by an Inter-Agency Working Group and accepted by the Inter-Departmental Water Policy Committee in January 1998. The method provides for a unified and consistent licensing system for all water users (including groundwater users) and has formed the basis of a review of current licensing arrangements as part of the development of the new water management legislation.

A moratorium on the issue of new licences for direct water diversions during the December to April period which was implemented in 1995 is still in force. The moratorium is lifted on specific streams as policies for sustainable allocation, including environmental requirements, are established.

The *Irrigation Clauses Amendment Act 1997*, proclaimed in December 1997, provides for the separation of water rights from land titles for all irrigation schemes covered by the Act and the allocation of water rights by auction, tender or other commercial means.

*Transfers of Water Entitlements*

The *Irrigation Clauses Amendment Act 1997* provides for the private trading of irrigation rights in Government owned irrigation schemes, either through leasing or sale. Such trading is subject to rules established by the Scheme Management Authorities and approved by the Minister for Primary Industry and Fisheries. Legislative and administrative arrangements are in place for full trading to commence in September 1998.

Transferability of water rights for other areas of the State and in other industry sectors is a component of the new water management legislation currently under development.

Prior to formalisation of water entitlement transfers under the new legislation, temporary transfers of water entitlements have been facilitated by the Department of Primary Industry and Fisheries to assist in addressing water shortage problems during recent irrigation seasons. Around 1170 megalitres of water was transferred under these arrangements in the 1997-98 season.

*Environmental Requirements*

Methods for establishing the environmental flow requirements for Tasmanian rivers and streams have been developed by the Department of Primary Industry and Fisheries. These methods are currently being used to set environmental flow requirements and allocation policies for the State's major rivers and streams in consultation with catchment communities. This work involves establishing "protected environmental values" (PEVs) and "water values" in consultation with other government agencies and catchment community groups.

Work is most advanced on the Meander River, with work commencing in late 1997 for the Mersey and Great Forester Rivers. DPIF has also established a priority list of stressed water resources for continuation of this work.

A State Policy on Integrated Catchment Management (ICM) is currently being developed under the *State Policies and Projects Act 1993*. It is proposed that under the ICM Policy, all public and private natural resource managers and planning authorities will be required to meet agreed catchment management objectives for soil, water, vegetation and biodiversity.

The State Policy on Water Quality Management became effective in September 1997. The Policy will facilitate the implementation of National Water Quality Management Strategy guidelines in Tasmania. The Policy provides for the setting of PEVs in consultation with catchment communities. The PEVs will link to "water objectives" and "water values" established under the proposed ICM Policy and to the Water Management Plans to be established under the proposed new water management legislation.

In late 1997, an inter-agency committee was established to develop a Water Quality Monitoring Strategy for Tasmania to meet the requirements of the State Policy on Water Quality Management.

#### *6.3.1.4 Preliminary Assessment by the COAG Task Force on Water Reform*

In June 1998, Tasmania accepted an invitation from the SCARM Taskforce on COAG Water Reform to undergo a "mock review" of progress in implementation of the COAG Water Reform Framework. The six-member review panel included representation from the NCC.

The panel recognised Tasmania's progress in institutional separation of urban water service provision, its methodology for establishing environmental water allocations in consultation with catchment communities and its strong inter-agency cooperation. However, the panel also acknowledged that full achievement of the COAG Framework was greatly dependent on the implementation of the proposed new water management legislation.

## *6.4 TRANSPORT INDUSTRY REFORMS*

The Tasmanian Government has adopted a staged approach to the implementation of the National Road Transport Commission (NRTC) reforms, which were agreed at the April 1995 COAG meeting and subsequently endorsed by Transport Ministers at the Ministerial Council for Road Transport (MCRT) at their meeting in November 1995.

The NRTC reforms are defined by two intergovernmental agreements - the Heavy Vehicles Agreement and the Light Vehicles Agreement, which are embodied as schedules in the Commonwealth's *National Road Transport Commission Act 1991*. These agreements involve the development and implementation of six national reform modules relating to:

- heavy vehicle charges;
- the road transport of dangerous goods;
- vehicle operations;
- vehicle registration;
- driver licensing; and
- compliance and enforcement.

The aim of the NRTC reforms is to introduce consistency and uniformity to the rules governing road transport in Australia. This, in turn, will facilitate the development of a competitive national market in road transport services. The NRTC reforms will provide benefits to Tasmanians through improved road safety and transport efficiency, as well as enabling the Tasmanian Government to administer road transport in a more cost effective manner.

### *6.4.1 Transport Reforms Implemented Since the Last Progress Report*

Following the introduction of a second stage legislative package to implement various agreed NRTC reforms on 1 October 1996, considerable work has been undertaken in the development of the remaining national reform modules and

implementation of the remaining reforms contained in the initial implementation package endorsed by the Transport Agency Chief Executives (TACE) (see section 6.4.2)

A package of amendments to Tasmanian legislation is currently being prepared which will allow adoption of further NRTC reforms, subject to adoption by the Australian Transport Council (ATC) and approval by the MCRT, in accordance with the timetable agreed by the MCRT in April 1998.

The reforms relate to the following:

- Driver licensing;
- Australian road rules;
- Light vehicle standards;
- Truck driving hours regulations;
- Compliance and enforcement; and
- Alternative compliance proposals.

Progress in relation to these reforms is outlined below.

*Driver Licensing*

Nationally agreed driver licence classifications were introduced in Tasmania on 1 June 1997. The national driver licensing package has been approved at the MCRT level and a Tasmanian *Vehicle and Traffic Bill* is currently under preparation. The Bill is expected to be submitted to Parliament in early 1999.

*Vehicle Registration*

The Tasmanian Vehicle and Traffic Bill which is currently being prepared will include the policy content of the Commonwealth's Road Transport Reform (Heavy Vehicles Registration) Bill and Regulations. In order to simplify administrative arrangements, the Government has decided to extend a number of heavy vehicle registration policy proposals to cover all classes of vehicles. The Vehicle and Traffic Bill is expected to be submitted to Parliament in early 1999.

*Australian Road Rules*

The Australian Road Rules (ARRs) are currently being developed by the NRTC. As these regulations will have a wide ranging effect on the general public, the development stage is taking longer than anticipated. It is envisaged that the NRTC will submit the ARRs to the MCRT for consideration in October 1998. Jurisdictions have agreed that it would be desirable to have a common implementation date and the NRTC has formed an Implementation Committee (with representation from Tasmania) to identify relevant issues.

*Light Vehicle Standards*

The development of a set of combined vehicle standards by the NRTC, incorporating the previously agreed heavy vehicle standards and the draft light vehicle standards, is currently in the final project stage prior to submission to the MCRT for consideration. Tasmania is actively participating with other jurisdictions and the NRTC in progressing this combined set of regulation reform. Most light vehicle standards are already in place by regulation or policy in Tasmania. Some minor regulation amendments will be required to finalise implementation once the combined standards are approved by the MCRT.

*Truck Driving Hours Regulations*

National regulations covering truck driving hours have been approved by the MCRT. The main thrust of these regulations was included in the legislative package introduced on 1 October 1996. Relevant jurisdictions will need to implement minor regulation changes to accommodate slight changes in the national policy since October 1996. The NRTC now intend to combine the Truck Driving Hours Regulations with the Bus Driving Hours Regulations. This process is expected to be completed by late 1998.

*Compliance and Enforcement*

The Compliance and Enforcement module currently being developed by the NRTC is seen as being essential to the ongoing administration of the final Road Transport Law Package. It is anticipated that the module will be submitted to the MCRT in mid-1999. Tasmania is actively participating with the NRTC and other jurisdictions in the development of this module.

*Alternative Compliance Proposals*

Alternative compliance proposals have been agreed at a national level and by the MCRT. Tasmania introduced legislation in late 1997 to formally pave the way for the implementation of alternative compliance schemes in relation to mass, maintenance and fatigue management. This legislation will be proclaimed by September 1998. A livestock-loading scheme has been introduced and a log-loading scheme is in the development stage. The Department of Transport is currently consulting with industry and national providers in relation to the adoption of voluntary alternative compliance schemes.

### *6.4.2 TACE Implementation Package*

During 1994 the Committee of Transport Agency Chief Executives (TACE) proposed a package of ten road transport reform issues to be implemented prior to finalisation of the National Road Transport Reform legislative modules. This package of road transport reform issues was subsequently endorsed by the MCRT and became known as the TACE Implementation Package.

Implementation of the TACE Package was to be via the most practicable means in individual jurisdictions. To this end, most jurisdictions have opted to adopt the Package and the National Road Transport Reform legislative modules by amending existing legislation in preference to template adoption.

A substantial part of the initial "TACE Implementation Package" has been adopted in all jurisdictions. The outstanding elements of the package, notably free of charge conversion of interstate drivers licences and a general permit for oversize/overmass vehicles up to agreed limits, have recently been implemented administratively in Tasmania.

In recognition of the success of the initial reform package TACE, in conjunction with the Road Transport Forum (RTF), proposed a further package of ten priority issues for implementation by jurisdictions. This package was endorsed at the February 1997 ATC meeting.

This second ten point package related to heavy vehicle reforms and consists of the following components:

- fatigue management for truck drivers;
- management of speeding heavy vehicles;
- information on vehicle offences and driver licence status;
- implementation of the first stage of the National Exchange of Vehicle and Driver Information System;
- mass limits review;
- truck/trailer mass ratio;
- axle/mass spacing for vehicles over 42.5 tonne;
- short term registration;
- consistent on-road enforcement of roadworthiness; and
- reduction in truck noise.

It should be noted that while the two 'ten point' packages "hang off" the legislative reform modules, COAG has not endorsed that the packages form part of the assessment framework for NCP road transport reforms. Nevertheless, it is anticipated that the components contained in the second heavy vehicle reform package will be implemented by July 1999, dependent upon progress nationally in finalising policy on the various issues.

## *7. CONCLUSION*

The Tasmanian Government considers that the reform principles encapsulated in the NCP Agreements are fully in line with the reform directions that Tasmania was already taking prior to the NCP Agreements being signed in April 1995. For this reason, Tasmania is using NCP and the processes that have been consequently established as a focal point for its ongoing microeconomic reform program.

While Tasmania remains strongly committed to implementing National Competition Policy reforms, the delays caused by the August 1998 State election

will clearly have implications for some elements of second tranche assessments. The incoming Government will need to re-consider a wide range of issues during September and October 1998, with the result being that some three to four months will effectively be lost from the reform timetable.

Despite the difficulty that time constraints placed upon Tasmania as a result of the State election, it is considered that the State will be able to demonstrate compliance with the overall spirit of NCP. To this end, it is considered that, by the end of 1998, the new Government will have signed off on all matters necessary to comply with NCP, particularly where legislative change is required.

# *8. CONTACTS AND PUBLICATIONS*

The Tasmanian Government has produced a number of policy statements, public information papers and reference manuals in relation to the implementation and operation of National Competition Policy and related reforms in Tasmania.

**Policy Statements**

*Application of the National Competition Policy to Local Government*, Government of Tasmania, June 1996.

*Application of the Competitive Neutrality Principles under National Competition Policy*, Government of Tasmania, June 1996.

*Legislation Review Program: 1996 - 2000 - Tasmanian Timetable for the Review of Legislation that Restricts Competition*, Government of Tasmania, June 1996.

**Public Information Papers**

*National Competition Policy Progress Report, April 1995 to 31 July 1997*, Government of Tasmania, August 1997.

*Tasmania's Reform Obligations and the New Financial Arrangements*, Department of Treasury and Finance, August 1995.

*Monopoly Prices Oversight and the Tasmanian Government Prices Oversight Commission*, Department of Treasury and Finance, January 1996.

*Reviews of Legislation that Restrict Competition*, Department of Treasury and Finance, July 1996.

*Extension of Part IV of the Trade Practices Act to all Businesses in Tasmania*, Department of Treasury and Finance, July 1996.

*The Application of Competitive Neutrality Principles to the State Government Sector*, Department of Treasury and Finance, July 1996.

*Guidelines for Considering the Public Benefit Under the National Competition Policy*, Department of Treasury and Finance, March 1997.

*Full Cost Attribution Principles for Local Government*, Department of Treasury and Finance, June 1997.

*Guidelines for Implementing Full Cost Attribution Principles in Government Agencies*, Department of Treasury and Finance, September 1997.

**Reference Manuals**

*Legislation Review Program: 1996 - 2000 - Procedures and Guidelines Manual*, Department of Treasury and Finance, June 1996.

Copies of these publications may be obtained by contacting:

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