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The National Competition Council

The National Competition Council was established on 6 November 1995 by the *Competition Policy Reform Act 1995* following agreement by the Commonwealth, State and Territory governments.

It is a federal statutory authority that functions as an independent advisory body for all governments on the implementation of the National Competition Policy reforms. The Council's aim is to 'improve the well being of all Australians through growth, innovation and rising productivity, by promoting competition that is in the public interest'.

Information on the National Competition Council, its publications and its current work program can be found on the internet at www.ncc.gov.au or by contacting Council's Communications officer on (03) 9285 7474.

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9th September 2003

The Honourable Peter Costello MP
Treasurer
Parliament House
Canberra ACT 2600

Dear Treasurer

In accordance with section 290 of the *Trade Practices Act 1974*, the National Competition Council is pleased to present you with its eighth annual report, covering the Council's operations for the year 2002-03.

Yours sincerely

Wendy Craik
Acting President

David Crawford
Councillor

Robert Fitzgerald
Councillor

Doug McTaggart
Councillor

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Abbreviations

ABS	Australian Bureau of Statistics
ABARE	Australian Bureau of Agricultural and Resource Economics
CoAG	Council of Australian Governments
CPA	Competition Principles Agreement
DFAT	Department of Foreign Affairs and Trade
ESC	Essential Services Commission (Victoria)
GDP	Gross Domestic Product
NCC	National Competition Council
NCP	National Competition Policy
NFF	National Farmers Federation
OECD	Organisation for Economic Co-operation and Development
PC	Productivity Commission
RBA	Reserve Bank of Australia
SACL	Sydney Airports Corporation Limited
SES	Senior Executive Service

President's review

2002-03 was a significant year for the National Competition Policy reform in Australia.

A major element of the program, the review and reform of legislation that contains restrictions on competition, was due for completion. Legislation review affected nearly all sectors of the economy and resulted in benefits to consumers through increased competition in areas like retailing, agricultural marketing, legal services and other professions. It also changed the way governments approach policy development. Public reviews that analyse the costs and benefits of policy options have become commonplace. Governments, government officials and stakeholders expect transparent and rigorous reviews to be a standard part of policy development.

While the full review and reform agenda has not been finalised, much has been achieved in the eight years since the National Competition Policy's inception in 1995. Over 1200 pieces of legislation have been reviewed and, where appropriate, reformed (consistent with National Competition Policy's guiding principle), the Trade Practices Act has been extended to cover all businesses in Australia, governments have improved the efficiency of their business by applying commercial disciplines and structural reform, the framework for a competitive electricity market in southern and eastern Australia has been established, there is free and fair trade in gas and there has been substantial progress towards the development of an economically viable and ecologically sustainable water industry.

These achievements have benefited people in Australia. On average household incomes are around A\$7000 higher due to competition policy (OECD 2003a). The electricity reforms alone are equivalent to a A\$1.5 billion rise in Australia's gross domestic product (Short et al 2001).

The greatest risk now is complacency. Failure to advance reform could undo many of the benefits that have been achieved. Australia's governments have recognised this. On 29 August 2003 the Council of Australian Governments agreed there is a pressing need to refresh the water reform agenda. At its first meeting in 2004 the Council of Australian Governments intends to consider a new detailed intergovernmental agreement that identifies specific actions to address water reform issues. Energy ministers have also been considering the strategy for future energy reform and developing recommendations to be considered by the Council of Australian Governments.

The Council welcomes these initiatives and governments' commitment to future reform. The implementation of the National Competition Policy and the infrastructure access work of the Council have highlighted electricity, gas, water and continuing obligations under the National Competition Policy

Agreements as areas where further reform is needed. The requirement that new restrictions on competition are necessary, and provide a net benefit to the community, now has elevated importance. It would be undesirable for unwarranted restrictions on competition to be removed from existing legislation, only to resurface in new legislation.

Finally, the Council would like to acknowledge the contribution of Graeme Samuel and Ed Willett to the success of the National Competition Policy. Both resigned after being with the Council since its inception in 1995. Mr Samuel held the position of Councillor and later President and left the Council in July 2003 to take up the position of Chairman of the Australian Competition and Consumer Commission. Mr Willett held the position of Executive Director and left in December 2002 to take up the position of Commissioner with the Australian Competition and Consumer Commission. Both made significant contributions to the Council's success in promoting and facilitating the implementation of the National Competition Policy Reforms.

A Competition policy: the future

In 1995, the Council of Australian Governments (CoAG) agreed to introduce the National Competition Policy (NCP) in anticipation of the benefits that it would bring:

[CoAG] emphasised that the competition policy reform package would enhance the national economic interest by improving Australia's international competitiveness as well as enhancing the interests of Australian consumers. Consumers will benefit from lower prices for government services as a result of the implementation of the package over time. (CoAG 1995)

In 2003, the Organisation for Economic Cooperation and Development (OECD) was among the Australian and international commentators that recognised that these benefits are being realised:

The implementation of Australia's ambitious and comprehensive National Competition Policy over the past seven years has undoubtedly made a substantial contribution to the recent improvement in labour and multifactor productivity and economic growth. The Productivity Commission estimates that Australia's GDP is now about 2½ per cent higher than it would otherwise have been, and Australian households' annual incomes are on average around A\$7000 higher as a result of competition policy. (OECD 2003a, pp. 16–17)

The benefits of reform are being delivered through a stronger more flexible economy, lower prices and greater choice for consumers and better business management (NCC 2002a). Australia is recognised for its strong economic performance within an international environment in which many countries have experienced difficulties. A sequence of international events have had the potential to adversely affect Australia, including:

- the Asian financial crisis, the contraction in the Japanese economy and the further fall in Asian economic activity caused by the sudden acute respiratory syndrome (SARS) outbreak;
- the downturn in the United States' economy, combined with the fall in business confidence following the 11 September 2001 terrorist attacks; and
- the continued slow economic growth in Europe (RBA 2002).

In previous world downturns, the Australian economy contracted as a consequence of the decline in other economies. The Reserve Bank of Australia

noted that the current strength in the Australian economy, in the face of poor economic performance internationally, diverges from past experience:

In past periods of global downturn, Australia has rarely outperformed the major countries; historically, our tendency was to have a period of weakness that was, if anything, more pronounced than those of the G7 group. This time it has been different ... (RBA 2002, p. 5)

Australia's sustained strong economic performance in recent years is notable when compared with its history and current international experience. The National Competition Council's 2001-02 annual report discussed this economic performance in detail. The following section illustrates Australia's economic performance and its link with the benefits of implementing competition policy reforms.

Unshackling the Australian economy: the gains from competition policy reform

Despite recent international events and the effects of the drought, Australia maintained an impressive rate of increase in gross domestic product (GDP) and labour productivity (table A.1). Australia's performance is significantly better than most other OECD countries.

Table A.1: Growth in GDP and labour productivity in Australia compared with the OECD average

	2001 %	Estimate	Projections	
		2002 %	2003 %	2004 %
<i>Change in real GDP</i>				
Australia	2.8	3.5	3.7	3.8
Total OECD	0.7	1.5	2.2	3.0
<i>Change in labour productivity in the business sector</i>				
Australia	1.8	2.2	2.3	2.3
Total OECD	0.2	2.0	1.7	1.8

Source: OECD (2003b).

Australia is one of only three developed countries that experienced a strong acceleration in productivity growth in the 1990s. It ranked second behind Finland and above Ireland (Banks 2002a, p. 5).

Domestically, Australia improved on its past economic performance in the following key areas.

- The Australian economy grew for the eleven years to 2002 (ABS 2003a).¹ On average, real GDP per person increased by 2.4 per cent each year between 1990-91 and 2000-01, well above the annual average since the 1960s (ABS 2003b).
- Inflation has been lower, averaging 1.9 per cent annually during the 1990s (ABS 2003c) compared with 9 per cent per year over the previous two decades.
- The unemployment rate fell from a peak of 10.7 per cent in late 1992 to 6.1 per cent in June 2003. The number of unemployed people fell from 921 000 in September 1993 to 621 000 in June 2003 (ABS 2003d).
- Productivity growth from the mid-1990s reached record levels, with labour productivity growth of 3.1 per cent a year and multifactor productivity² growth of 1.7 per cent a year from 1993-94 to 1999-2000 (PC 2003a). In the 1990s Australia had its longest ever period of continuous positive growth in productivity on record (nine years) and its strongest underlying rate of productivity growth (about two and a half times the previous average) (Banks 2002b, p. 1).
- Growth in multifactor productivity over the latest business cycle has been higher than for any preceding cycle since it was first measured in 1964-65 (ABS 2003e).
- Australia's exports of elaborately transformed manufactures grew at an average annual rate of 11 per cent over the past decade, compared with total merchandise export growth of just under 9 per cent (DFAT 2002).
- Exports of services are growing. The value of business and professional services exports, for example, reached A\$2.9 billion in 2000-01 — a rise of 186 per cent over the last decade (DFAT 2002).

It is difficult to prove conclusively which factors drive economic performance. Given that improvements in productivity are linked to increases in growth in output, higher incomes, higher demand and more employment, this analysis is a useful place to begin considering the role of reform in Australia's economic performance. The Productivity Commission's examination of productivity growth identified three factors that could contribute to Australia's strong productivity growth (PC 2002a):

- education and skills development;

¹ Measured by the chain volume estimates of GDP.

² Multifactor productivity is a measure of the efficiency of the production process that accounts for both capital and labour inputs.

- the take-up of information and communications technologies; and
- reform initiatives.

The Productivity Commission concluded that these factors are interrelated and the first two, while they can explain some of the productivity growth, have made a relatively modest contribution to that growth. It stated:

Policy reforms have been major drivers and enablers. Reforms have enhanced competitive pressures: opened the economy to trade, investment and technology; and allowed greater flexibility to adjust all aspects of production, distribution and marketing.

In broad terms, reforms have released the shackles of the economy and have both forced and allowed business to modernise. (PC 2002a, p. 26)

The OECD supported these conclusions:

There are compelling indications that the combination of sound macroeconomic policies and long-standing structural reforms have greatly enhanced the Australian economy's capacity to grow more quickly and respond more flexibly to shocks. (OECD 2003a, p. 75)

As discussed in the Council's 2001-02 annual report, these general observations are supported by a closer look at many of the sectors that have been subject to reform (box A.1).

Box A.1: Specific benefits from competition policy reforms

Electricity

The benefits of electricity reform are large. The Australian Bureau of Agriculture and Resource Economics estimated that the benefits from electricity reform by 2000 — three years after the commencement of the national market — were equivalent to a A\$1.5 billion rise in Australia's gross domestic product (Short et al. 2001).

Many electricity prices have fallen. The Productivity Commission showed that household electricity prices in Brisbane, Melbourne and Sydney fell in real terms by 1–7 per cent between 1990-91 and 2000-01, representing real savings to households in 2000-01 of some A\$70 million (PC 2002b). In Melbourne, the average real price for small businesses consuming 12 000 kilowatt hours per year decreased by 23 per cent in 2002 and the average real price for medium businesses using 40 000 kilowatt hours year fell by 17 per cent (ESC 2003, p. 6).

Gas

Gas reform under the NCP has transformed the gas industry in Australia. The introduction of the national gas code (particularly in relation to gas distribution pipelines) has increased competition in gas exploration and stimulated gas production and pipeline development. Since 1995 more than A\$1 billion has been invested in upstream, transmission and distribution assets each year. Total transmission pipeline infrastructure grew from 9000 kilometres in 1989 to over 17 000 kilometres in 2001 (Australian Pipeline Industry Association 2001).

The Australian Gas Association (1999) expects the proportion of Australia's energy supplied by gas to grow to 22 per cent by 2005 and to 28 per cent by 2014-15.

(continued)

Box A.1 continued

Water

Water reform is affecting all aspects of the provision and use of water. Progressively governments are preparing water management arrangements that identify and allocate water to meet the needs of users and of the environment.

Consumption-based pricing has encouraged efficiencies in water consumption, leading to a real reduction of 2.7 per cent in customers' combined water and sewer bills. Per person water use in the 10 years to 2001 fell in Sydney by 7 per cent, in Melbourne by 12 per cent, and in Newcastle by 14 per cent (WSAA 2001, pp. ix-x). In the ACT, changes to the structure of water prices reduced annual consumption by a typical household from 150-500 kilolitres to 150-300 kilolitres (Giurietto et al 2002, p. 8).

Water trading is increasing. The Victorian Government estimated that the ongoing return from irrigation is increasing by as much as \$12 million each year due to water trading (DNRE 2001, p. 17). In the Murray-Darling Basin since early 1998, States traded over 10 000 megalitres of water. These trades were valued at over A\$10 million. The trades have been predominantly from low value irrigation uses such as pasture, citrus trees and annual crops to higher value uses (mainly vines for the production of wine) (Green 2001, p. 3).

Other reforms

Deregulation of grain marketing has resulted in innovation in growers' approach to selling their crop. Growers can now effectively manage their price risk and price their harvest up to three years in advance. The Australian Stock Exchange is developing a futures market for milling wheat, feed wheat, canola and sorghum (Wise 2003).

Consumers are taking advantage of the convenience offered by extended retail trading hours. Growth in retail turnover in Victoria has exceeded national growth since deregulation in December 1996 (ABS 2003g). In Sydney and Melbourne, where supermarkets can trade on Sundays, around 35 per cent of consumers shop for food and groceries on Sunday. In Perth, however, where only smaller food stores can trade on Sunday, only 7-8 per cent of people shop for food on that day (Jebb Holland Dimasi 2000, p. ii).

The greatest risk now is complacency. Failure to advance reform could undo many of the benefits that have been achieved.

- Australia's rate of productivity growth is high but its absolute level of productivity are below that of many OECD countries. There is scope for further productivity improvements.
- Previous reforms have generated considerable growth in productivity, but they cannot be relied on to maintain growth indefinitely. Further improvements are needed to sustain the economy.
- Economic pressures domestically and abroad may inhibit Australia's productivity growth.
- Once Europe, the United States and Asia recover from the international economic downturn, Australia will need to continue to improve to avoid falling behind.

Productivity levels in Australia

Although Australia's growth in productivity, GDP and per person income have been high by international standards, its level of income and productivity are still exceeded by the levels in some other OECD countries:

Australia's impressive productivity performance since the beginning of the 1990s has only now restored our relative productivity and GDP per person to the position we held in the 1950s. (Treasury 2003, p. 101)

Information provided by the Productivity Commission supports conclusions by the Australian Government Treasury and the OECD that Australia's productivity ranking is improving but still below that of other developed economies (table A.2).

Table A.2: International ranking of United States and Australia on average income, labour productivity and labour use^a

	1950		1960		1973		1990		2001	
	Rank	%US	Rank	%US	Rank	%US	Rank	%US	Rank	%US
GDP per person (1996 US\$^b)										
United States	2	(100)	2	(100)	2	(100)	1	(100)	1	(100)
Australia	5	(78)	7	(78)	9	(74)	15	(74)	7	(78)
GDP per hour worked (1996 US\$^b)										
United States	1	(100)	1	(100)	2	(100)	5	(100)	5	(100)
Australia	4	(81)	5	(75)	10	(74)	15	(77)	14	(83)
Labour use (annual hours worked per person)^c										
United States	14	(100)	19	(100)	11	(100)	4	(100)	2	(100)
Australia	16	(96)	17	(104)	7	(104)	6	(96)	5	(94)

^a Rankings are among 22 of the 24 OECD pre-1994 member countries. ^b A purchasing power parity.

^c Labour use explains the gap between average income and labour productivity. GDP per person is equal to GDP per hour worked multiplied by hours worked per person.

Source: University of Groginen and The Conference Board, *GGDC Total Economy Database, 2002*, as reported by the Productivity Commission (2002a).

In 2002, Australia was still ranked seventh on GDP per person³, its average income was 22 per cent less than that of the United States, 11 per cent less than that of Greece, 9 per cent less than that of Switzerland, 6 per cent less than that of Denmark, 5 per cent less than that of Canada and 1 per cent less than that of the Netherlands (University of Groginen 2003). As noted by Charles Bean (2000, p. 74) from the London School of Economics, these figures illustrate the scope for improvement in Australia's productivity and growth.

³ Measured in 1999 US\$.

The ability to sustain high levels of productivity growth

While there is considerable support for the conclusion that improvements in productivity have resulted from microeconomic reform such as the competition policy reforms, it is not so clear how the past reforms will affect future productivity growth. Many of the NCP reforms have been implemented only recently and some, such as water and electricity reforms, are ongoing. Businesses will take time to adjust and respond to the more recent changes. The improvements in efficiency are thus expected to flow through over several years:

It is very likely that the impact of the major reforms in labour and product markets on MFP [multifactor productivity] growth will be felt for some years to come, as will the benefits of wider use of, and better adaptation to, new technologies. (OECD 2003a, p. 90)

The NCP is also likely to have some long-term effects on Australia's ability to generate productivity growth. By exposing more of the economy to competition, the NCP generates an environment that encourages and facilitates flexible and dynamic industries. Businesses have both the incentive and ability to capitalise on new opportunities:

... there are grounds for optimism about the longer-term outlook for productivity growth. For one thing, the heightened incentives and disciplines for improved performance are not temporary. The reduction of barriers to competition and removal of impediments to innovation can be expected to have lasting effects on the dynamism of our economy. And, to the extent that the economy has become more flexible and adaptable, its capacity to deal with any future external shocks and to benefit from technological advances (including e-commerce) will have improved. (Banks 2002b, p. 3)

The NCP reforms also provide incentives to remove existing inefficiencies. While such gains are critical to improving incomes and wealth in Australia, they will not necessarily generate ongoing increases in productivity growth. As Bean noted:

... it points to dangers when policy-makers and private agents erroneously mistake a once-off increase in the level of national or personal incomes for a permanent increase in its growth rate. The UK experience suggests that Australian policy-makers and households would be unwise to project the recent high rates of productivity growth into the future. (Bean 2000, p. 101)

The Council strongly supports the views of the Australian Government Treasury (2003, p. 124) and the OECD (2003a, p. 22) that Australia needs to continue to pursue economic reform to guarantee ongoing improvements in its productivity and growth and, ultimately, its national wealth.

Economic pressures on Australia's economy

While reform has a positive effect on Australia's economic growth, other influences constrain the economy's performance. The Australian Government Treasury predicted that 'while the economy should continue to grow in 2003-04, the pace is likely to be a little below trend' (Treasury 2003, p. 61). Two key factors that have recently worked against Australia's economic wellbeing are the downturn in the international economy and the drought.

Australia's economy is closely linked with the rest of the world, so the downturn in the international economy is a significant issue. Such a downturn can reduce overseas demand for Australian goods and services, and reduce the confidence of Australian businesses. Both consequences affect economic growth. Australia's exports have declined partly as a result of reduced overseas demand. In 2002, Australia's exports grew by only 2 per cent, down from an average annual growth rate of 8 per cent over the past decade. As imports grew strongly, the net effect of trade was to reduce economic growth by more than 3 percentage points in 2002 (RBA 2003, p. 5). The outlook for business investment in Australia is also tempered by ongoing global uncertainty (Treasury 2003, p. 63). In addition, the drought conditions in 2002 reduced farm production by almost 25 per cent (RBA 2003, p. 7) and GDP by an estimated 0.9 per cent (or around A\$6.6 billion) (ABARE 2003a).

The Reserve Bank and the Australian Government Treasury are optimistic that the negative influence of the international downturn and the drought will be reduced in 2003-04. The Treasury notes that:

The expected rebound in farm production should provide a boost to overall economic growth in 2003-04.

...a sustained global recovery has not yet taken hold. The most likely outcome is a gradual improvement in the global economy with world growth expected to be around 3 per cent in 2003, rising to around 3½ per cent in 2004. Trading partner growth is expected to be around 2½ per cent in 2003 and 3 per cent in 2004. (Treasury 2003, p.62)

Most commentators are cautious, however. Both the Australian Government Treasury and the Reserve Bank consider that neither the international recovery nor the end of the drought are guaranteed. A worse than expected outcome in either case would adversely affect Australia. The Australian Bureau of Agricultural and Resource Economics (ABARE) predicts that the recovery from the drought will not be immediate.

Despite significant rains in some areas, many of Australia's principal agricultural regions remain affected by drought. Even if there are good rains over the rest of the winter crop growing season, the 'income drought' faced by most grain growers will continue until harvest. For many livestock producers, feed supplies are likely to remain critically short and the cost of feeding livestock high until at least spring. (ABARE 2003b, p. 1)

The Council agrees that the agricultural sector will continue to feel the adverse effects of the drought until dam levels have recovered. Even if average rainfall improves, storages will take time to refill; in the meantime, the availability of water for irrigation will remain low. Graziers will also take time to restock their properties after the drought has broken.

Because such events are beyond Australia's control, the community should look for reforms that can offset these external risks.

Continuing high Australian productivity growth will require an environment in which individual businesses strive for better products or better ways of doing things and where resources move quickly to the good ideas. Competition is central to this, through providing both an incentive for new ideas and effectively sorting the good from the bad. (Treasury 2003, p. 118)

Competition reforms are therefore an important component of any future reform strategy.

Overseas gains in productivity

The improvement in Australia's relative wealth position has partly resulted from slow economic growth in other developed countries, which will not continue. As noted above, the international economy is expected to recover. There is also considerable international interest in Australia's policy approach and its ability to generate strong growth when other economies are faltering. International commentators are noting that 'ignoring structural change and structural policy is no longer an option open to governments. Ensuring good supply-side performance is now an imperative in all OECD countries, as well as many beyond, and increasingly being seen as such' (Llewellyn 2002, p. 7). This international environment makes it an imperative for Australia to undertake further reform so it does not lose the hard-won gains of recent years.

The scope of reform

The NCP has been highly successful thus far. It is useful to review the scope and characteristics of the NCP and assess whether it can provide lessons for the development and implementation of future reform programs. The NCP encompasses a reform package that is unique in its scope and sustained momentum for reform. In terms of the scope of the NCP reforms, the package covers all sectors of the Australian economy, with specific reforms in the electricity, gas, water and road transport industries (box A.2).

Box A.2: Summary of NCP reforms

The NCP reforms agreed by governments in 1995 are to:

- review and, where appropriate, reform all legislation that restricts competition, ensure any new restrictions provide a net community benefit and are necessary to achieve the objective of the legislation, and adopt good regulatory practice in setting national standards;
- widen Australia's consumer protection laws by extending the reach of part IV of the *Trade Practices Act 1974* to apply to all businesses in Australia. Part IV prohibits anticompetitive behaviour such as the abuse of market power and market fixing by businesses;
- improve the performance of government businesses by undertaking structural reform, introducing competitive neutrality so government businesses do not enjoy unfair advantages when competing with private businesses, and considering the use of prices oversight for public monopolies; and
- improve the quality of Australia's infrastructure by reforming the electricity, gas, water and road transport industries, and by establishing third party access arrangements for the services of nationally significant infrastructure such as gas pipelines, electricity grids and railway lines.

State and Territories accepted reform obligations on behalf of local governments within their jurisdictions.

The momentum from reform under the NCP has remained strong for eight years, since the NCP was agreed in 1995. Governments are still focused on completing the existing reform program.

- There is an emerging national market in electricity in southern and eastern Australia. Choice of electricity supplier is available to all larger customers of electricity and to some households.
- There is national free and fair trade in gas, with several jurisdictions offering full customer choice of gas supplier and most governments having scheduled to do so shortly.
- The program of review and appropriate reform of legislation that restricts competition is well advanced, and governments have removed restrictions that could not be shown to provide a net community benefit. Some important restrictions remain, however, and must be addressed before the reforms can be considered complete.
- Governments have devoted considerable effort to improving the performance of their businesses via structural reform and by ensuring the commercial disciplines that apply to the private sector also apply to their own businesses.
- Australia is beginning to develop an economically viable and ecologically sustainable water industry. The CoAG water reforms include pricing reform in urban and rural areas to encourage appropriate water use, the creation of secure water rights separate from land title, the allocation of water for the environment, and the facilitation of trading in water entitlements.

There were periods over the past eight years when reform was politically unpopular and the pressure from lobbying to stall reform was strong. The achievements to date demonstrate, however, that governments have generally maintained a strong commitment to implementing reform. This commitment reflects a clear understanding among all governments that there are significant benefits from the reforms. Also, the NCP program has built-in transparency and incentives (including financial incentives) that help governments to maintain the reform momentum. These incentives are discussed in more detail in the following sections.

Future reform

As the implementation of the existing NCP program is approaching its final years, governments are considering the future. The Council has considerable experience in the implementation of the NCP reforms. This experience provides useful insights into the strengths and weaknesses of the current approach to microeconomic reform, particularly of the implementation framework. The following sections discuss this experience.

Overall, the Council considers that the NCP reforms are highly successful, and have been implemented in accord with the intergovernmental agreements that establish and define the NCP. The reform program has been flexible enough for governments to vary when needed, yet robust enough to avoid unnecessary modification that would undermine the reforms. The reforms have generated tangible benefits — namely a strong and prosperous Australian economy, specific industry-based benefits and increased rigour and transparency in government regulatory processes. Further, the model for assessing the costs and benefits of new and existing legislation has provided a framework for ongoing consideration of competition issues.

The reform process

Governments should reflect on three aspects of the NCP implementation framework in developing any new reform agenda:

- the benefits of nationally consistent reform;
- the value of incentives in maintaining reform momentum; and
- the process for managing and monitoring the adoption of reform, including structural change.

Nationally consistent reforms

The NCP implements a national reform program that has increased policy consistency across Australia. It provides a nationally agreed set of principles against which reform is undertaken. If governments wish to deviate from the agreed reforms, then they must seek the agreement of all other jurisdictions or risk losing part of their NCP payments.

In addition, the NCP facilitates legislative consistency by offering scope for national reviews. It provides that a government, where one of its reviews has a national dimension or effect on competition (or both), should consider whether the review should be national in scope. Twelve national reviews have been scheduled under the NCP. Nine have been finalised, although the relevant governments are still to undertake the necessary legislative action in many cases (box A.3).

Box A.3: National reviews

Finalised reviews

Agricultural Chemicals Act 1994 and related Acts

Petroleum (submerged lands) Acts

Legislation regulating drugs, poisons and controlled substances

Food Acts

Pharmacy regulation

Legislation regulating the architectural profession

Radiation protection legislation

Travel agents legislation

Consumer credit legislation

Reviews to be finalised

Mutual Recognition Agreement and the *Mutual Recognition (Commonwealth) Act 1992*

Trustee corporations legislation

Trade management legislation

The NCP promotes national consistency but was not intended to deliver nationally uniform reforms. Governments are free to evaluate issues independently, and they may reach different conclusions on the appropriate approach. The Competition Principles Agreement (CPA) states that ‘prices oversight of State and Territory government business enterprises is primarily the responsibility of the State or Territory that owns the enterprise’ and ‘each party is free to determine its own agenda for the reform of public monopolies’ (NCC 1998, pp. 15 and 18).

Yet, as governments are considering the next phase of reform, many stakeholders are arguing that greater national uniformity is needed. The

Parer Review argued that an improved national focus is needed in Australia's energy markets. It found, for example, that transmission planning is fragmented and that, with so many entities involved, the transmission system lacks a national focus (Parer 2002, p. 22). In its submission to the Parer Review, the Council highlighted several areas in which national consistency should be improved — for example, greater national coordination of regulatory regimes (see the section on electricity for detail, p. 21).

Similarly, groups interested in water reform, such as the National Farmers Federation, are arguing for a more uniform approach among the States and Territories:

Agriculture needs the establishment of a national framework for water resource security that will provide farmers with certainty to make positive investment decisions. (NFF 2003, p.2)

The desirability of national uniformity will vary across issues. In many cases, nationally consistent regulation would reduce the costs to businesses moving between States and Territories or operating across borders. Consistency helps to facilitate competition by making it easier for businesses to supply customers in different locations, but national uniformity is not always appropriate. The characteristics of industries and the history of their regulatory structure vary across States and Territories. Adopting an identical approach across the country may be inappropriate or impractical. The level of regulation needed to deal with environmental degradation in river systems in New South Wales, for example, would be inappropriate in the Northern Territory, where the environmental issues are less acute and the level of water use is much lower.

The existing NCP agreements have improved national consistency in many areas. The reform framework is also an ideal vehicle for implementing nationally consistent policies. In considering the level of uniformity that should be built into any intergovernmental agreements, however governments should consider the costs and benefits of uniformity.

The details in the intergovernmental agreements are critical. A program such as the NCP cannot deliver consistent outcomes unless consistency is established as an objective of the underlying government agreements. Further, intergovernmental agreements should include mechanisms and measures that facilitate the monitoring of progress towards reform implementation.

Incentives to maintain reform

The implementation of the NCP is notable for maintaining an ongoing momentum for reform over a considerable period. All Australian governments have recognised the benefits of pursuing these reforms. The States and Territories have obtained direct benefits from the economic growth stimulated in their jurisdictions. Two key components of the NCP also contribute to the incentives to undertake reform:

- the agreements that clearly specify reform obligations; and
- a transparent assessment process that aims to facilitate reform and competition payments that provide a dividend to governments for undertaking reform.

Reform agreements

Two types of intergovernmental agreement form the NCP package. First, there are three agreements that underpin the NCP:

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

These three agreements outline the general NCP reform obligations and the institutions and processes for reform implementation. Second, agreements cover related reforms in electricity, gas, water and road transport. The NCP agreements for the related reforms vary in their scope and specificity (box A4). The Council found that some of these agreements are more effective than others in facilitating and encouraging reform. The water reform program, for example, is progressively achieving a highly ambitious reform agenda, while some of the road reforms have not been implemented.

Box A.4: Industry-specific agreements

Electricity

The electricity agreements include both overarching principles and specific reform obligations. The specific obligations are less detailed or comprehensive than those in the gas and water agreements. The agreements cover only jurisdictions connected to the national electricity market. This scope excludes Western Australia and the Northern Territory and will include Tasmania only once Basslink is constructed. Any changes to the electricity agreements have been endorsed by an agreement of heads of governments.

Gas

The gas agreements include overarching principles and specific reform obligations. They also set up processes for developing the detail of the specific obligations: for example, the Gas Reform Task Force developed the National Third Party Access Code for National Gas Pipelines. Any changes to the gas agreements have been endorsed by an agreement of heads of governments. Under the National Gas Pipelines and Access Agreement, all transitional arrangements and derogations have to be agreed by all Ministers (with parties nominating a responsible Minister).

(continued)

Box A.4 continued

Water

The water agreements include overarching principles and specific reform obligations. Expert committees or other groups working under Ministerial councils have provided further guidance on the detailed commitments. The results of this work have been consistent with the original agreements. Any changes to the water agreements have been endorsed by an agreement of heads of governments.

Road transport

The road transport agreements comprise specific reform modules. In contrast to the Council's assessment of other areas of reform, the Council's assessment process was not automatically linked to all of the road reform modules. The Ministerial Council for Road Transport was responsible for specifying the reforms subject to the Council's assessment. No new reform modules have been identified for assessment since 2001 and some of the original reform modules have not been subject to the assessment process.

Source: NCC (1998).

The most effective agreements should include:

- overarching principles that can be used to guide any flexibility in application to ensure the desired outcome is delivered;
- sufficient detail on the reform requirements to benchmark the assessment of performance. Because the assessment body should not be responsible for policy development, the agreements need to specify policy objectives;
- interim benchmarks (particularly where outcomes are longer term) and mechanisms for priority setting so the reform process does not stall;
- mechanisms to monitor reform implementation; and
- mechanisms to change and refine the agreements that avoid inappropriately winding back the obligations or exempting obligations from assessment. This can be avoided by;
 - requiring unanimous CoAG agreement to change the commitments,
 - requiring CoAG to endorse the work of other bodies (such as Ministerial councils) before that work becomes part of the agreements, or
 - providing sufficient detail in the agreements and constraining other bodies to developing approaches consistent with the overarching CoAG agreements.

The work of other bodies (such as Ministerial councils or groups of officials) can inform the assessment of reform implementation and help develop performance benchmarks and best practice approaches, but risks diluting reform if it results in rewriting the agreements.

The assessment process and NCP payments

The Council has undertaken five assessments of State and Territory government progress in implementing the NCP, in June 1997, 1999, 2001, 2002 and 2003. It has also undertaken supplementary assessments to reconsider certain outstanding issues. The assessments make recommendations to the Australian Treasurer on whether States and Territories have met their commitments to implement the NCP reforms and, consequently, whether they should receive NCP payments.

The payments are dividends for implementing reform. They recognise that the States and Territories are responsible for implementing significant components of the NCP, yet much of the financial dividend from the economic growth arising from the NCP reforms accrues to the Australian Government through the taxation system. Table A.3 provides information on the level of NCP payments.

Table A.3: Maximum annual NCP payments, 1997-98 to 2005-06 (\$ million)

	1997-98 ^a	1998-99 ^a	1999-2000 ^a	2000-01 ^a	2001-02 ^a	2002-03 ^a	2003-04 ^b	2004-05 ^b	2005-06 ^b
NSW	126.5	138.7	209.5	155.9	242.5	251.8	257.2	262.4	268.5
Vic.	92.8	102.0	152.1	114.7	179.6	182.4	189.5	193.7	198.5
Qld	74.2	81.6	118.9	73.0	147.9	138.9	146.2	150.7	155.6
WA	38.4	42.4	61.9	45.5	71.1	72.0	75.2	77.0	79.2
SA	34.3	38.4	53.5	35.9	55.7	57.1	58.5	59.4	60.5
Tas.	12.6	13.9	18.7	11.2	17.4	17.7	18.1	18.4	18.6
ACT	6.2	7.0	10.8	7.5	11.6	12.4	12.5	12.7	13.0
NT	11.2	13.0	14.4	4.5	7.6	7.5	7.6	7.7	7.9
Total ^c	396.2	436.9	639.8	448.0	733.3	739.9	764.8	782.0	801.9

^a Actual from final budget outcome documents. ^b Estimate from the Commonwealth Budget 2003-04, Budget Paper no. 3 *Federal financial relations*, Canberra. ^c Totals may not add due to rounding. Note 1 Figures up to 1999-2000 include financial assistance grants. Note 2 Estimates based on current inflation rate and population growth rate.

CoAG asked the Council, when assessing the nature and level of a payment reduction or suspension recommended for a particular State or Territory, to account for:

- the extent of the jurisdiction's overall commitment to the implementation of the NCP;
- the effect of one jurisdiction's reform efforts on other jurisdictions; and
- the impact of the jurisdiction's failure to undertake a particular reform (CoAG 2000).

The Council interprets CoAG's guidance to mean that individual minor breaches of reform obligations should not necessarily have adverse payment implications if the responsible government has generally performed well against the total NCP program. Nevertheless, a single breach of obligations in an important area of reform may be the subject of an adverse recommendation, especially if the breach has a large impact on another jurisdiction.

Together, the assessment process and the provision of NCP payments produce a strong incentive to implement reform. The assessment process and subsequent report involve a detailed and transparent stocktake of reform implementation. The report provides progress information to the community in a form that allows a comparison of the relative performance of governments. This transparency and the ability to benchmark performance provide incentives for governments to implement reform.

The availability of NCP payments is also an incentive for States and Territories to implement reform. This incentive is strengthened by the Council's approach to facilitating reform. The Council is independent of governments, but works with them in interpreting reform obligations and assessing progress. The Council's primary objective, however, is to assist governments to achieve reform outcomes that are consistent with the interests of the community. Consequently, the Council recommends the suspension or reduction of NCP payments reluctantly.

This year, the Council's assessment of governments' compliance with the legislation review program has been somewhat different. All governments were required to have fully implemented their program to review and, where appropriate, reform legislation by June 2002. The coincidence of the deadline for review and reform completion and the 2002 NCP assessment meant that it was not practical for the Council to report on all activity to 30 June 2002. Further, given the significant resource demand that the review and reform program places on governments, the Council accepted that there is a case for governments prioritising their review and reform activity to reduce delays in considering legislation that contains more significant competition restrictions. In 2002, the Council stressed that governments should ensure all review and reform activity was complete and consistent with the NCP obligations by June 2003, or the Council would be likely to recommend a reduction in NCP payments for any significant noncompliance. In practice, governments that had a year's grace.

The assessment process and associated incentives set the NCP apart from other intergovernmental reform agreements and are key to its success. Transparency, a focus on reform facilitation and financial rewards for reform implementation have created the incentives for governments to implement significant reforms in a relatively short period of time.

Managing the change process

Structural change in economies has been continual throughout history. It is a vital contributor to economic growth and improvement in living standards. Over the past 200 years, Australia has evolved from an economy that was highly dependent on commodity exports into a predominantly service-based economy. Significant changes continue across the economy, including in the services sector, with telecommunications and information technology becoming relatively very important.

Structural change can be caused by many things, such as changing consumer demands, new technologies, shifts in the relative costs of inputs, new domestic and international competitors, and changing terms of trade. Economic reforms introduced by Australian governments are another source of structural change. Significant policy reforms over the past two decades include the deregulation of the financial sector, the floating of the Australian dollar, progressive reductions in import barriers, the restructuring (and, in many cases, privatisation) of government business enterprises, and industrial relations reform.

While bringing benefits overall, change often involves transitional costs. Direct costs fall on businesses and employees in industries directly exposed to structural change. A government may decide, for example, to restructure a public monopoly by separating its regulatory and operational functions, or separating potentially competitive elements from natural monopoly elements, corporatising the separated entities and requiring them to earn commercial rates of return on public equity. Managers of the entities would subsequently be likely to pursue production efficiencies, which may involve the loss of some employment.

If businesses close or reduce their operations as a result of structural change, then other companies that provide them with inputs or distribute and retail their products may feel the impact. Suppliers can be significantly affected if they depend on restructuring businesses for a large part of their sales. Such suppliers may face particular adjustment problems if they are located in a region where alternatives are limited. If these effects are concentrated, then the region generally can be affected. The size and impact of adjustment costs will vary depending the capacity of businesses and the community to absorb the costs of change (box A.5).

Box A.5: Factors affecting adjustment costs

The ability of businesses and individuals to adjust to change depends on the availability of alternative employment and business opportunities. It also depends on whether businesses and individuals have the skills, financial resources and flexibility to take advantage of alternative opportunities.

A community's capacity to absorb the costs of change is higher when:

- other businesses are not heavily reliant on the sector subject to reform;
- businesses subject to the reforms remain in the region;
- the economic base of the region is broad;
- there is the potential to expand or change the focus of the region's economy; and
- the region's economy is generally strong, rather than contracting.

Source: Cope (2002, p. 26).

When adjustment costs are large, adjustment assistance may be appropriate. The appropriate type of adjustment assistance will vary. The most effective packages balance the competing objectives of maximising the ability of people and communities to cope with change, and maximising the speed of achieving the benefits of reform, while minimising the cost to taxpayers. Adjustment assistance does not necessarily involve direct financial assistance to those affected by reform. It can include:

- the dissemination of information about the nature of the reforms, the options for adjustment, the availability of general assistance measures and any proposed additional assistance;
- consultation during the development of reform options, including providing people with information to help them understand and accept the need for change and choose a change strategy that recognises the circumstances of their region;
- financial assistance to help fund the investment needed for the business to change, refocus or leave the industry;
- financial assistance to communities to research or facilitate the establishment of alternative activities in the region; and
- phasing in reform by announcing it in advance to allow businesses to plan and begin their adjustment, or by staggering the introduction of reform to moderate the pace of change.

The reforms introduced under the NCP also have the potential to change Australia's economy. Overall, the NCP benefits Australia, but individual reforms can adversely affect small groups. Improving the efficiency of electricity generation, for example, had substantial benefits for Victoria, but a significant labour saving component to the reform meant that the level of employment fell in some regions at the time of the reforms. The NCP electricity reform is estimated, for example, to have reduced employment in

Gippsland (the location of the Latrobe Valley electricity generation complex) by more than 6 per cent (PC 1999, p. 116).

While the NCP requires reform to be introduced only when it is in the public interest, and water reform allows a balancing of the requirements of competing interests (such as water users and the environment) there are no obligations on managing the change process. Governments have often considered change management as part of their implementation strategy. Dairy reform, for example, was supported by a financial assistance package. In the passenger motor vehicle industry, reform has been phased and made in conjunction with transitional assistance, to give the industry time to adjust.

Nevertheless, the implementation process has not always been managed well and governments' approaches to managing adjustment are sometimes ad hoc. The Council considers that reform programs would benefit from an explicit consideration of the mechanisms to manage the change process.

In some reform areas, governments should be able to agree on principles for assessing the appropriate change management process. However, the best form of assistance cannot be predetermined in intergovernmental agreements. The type and amount of assistance that is appropriate will vary between cases. The State and Territory governments are in the best position to analyse the impact of change when they analyse other reform issues. While the Council considers that explicit recognition of the need for change management would be beneficial in any future reform agreements, and that it may be possible to develop principles for determining assistance, it also considers that individual cases should be decided by each State and Territory government, based on the circumstances of each reform.

Priority reform areas

While much has been achieved through the implementation of the NCP, several areas would derive significant benefits from further reform. The implementation of the NCP and the infrastructure access work of the Council have highlighted three such areas:

- electricity;
- water; and
- continuing obligations under the NCP agreements.

Further, the current NCP program has not addressed reform issues in health services, environmental management (beyond water) and integrated land transport. The Council encourages governments to give priority to these areas.

Electricity

In December 2002, a review panel chaired by the Hon. Warwick Parer reported on strategic issues for Australia's energy market and policy options that would generate the greatest benefit for the energy sector. In June 2003, the Ministerial Council on Energy met to consider the strategy for future energy reform in Australia. It agreed that it would report to CoAG that further reform is needed to:

- strengthen the quality, timeliness and national character of governance of the energy markets, to improve the climate for investment;
- streamline and improve the quality of economic regulation across energy markets, to lower the cost and complexity of regulation facing investors, enhance regulatory certainty and lower barriers to competition;
- improve the planning and development of electricity transmission networks, to create a stable framework for efficient investment in new (including distributed) generation and transmission capacity;
- enhance the participation of energy users in the markets, including via demand-side management and the further introduction of retail competition, to increase the value of energy services to households and business; and
- increase the penetration of natural gas, to lower energy costs and improve energy services, particularly in regional Australia, and reduce greenhouse emissions. (Ministerial Council on Energy 2003a, p. 2)

The Ministerial Council on Energy agreed to reform initiatives, with timelines, to address concerns about governance and economic regulation in the Australian energy markets. CoAG will consider these reform recommendations (Ministerial Council on Energy 2003a, 2003b).

The Council welcomes this commitment to further reform. The Council's NCP assessments of electricity reform concluded that the majority of jurisdictions have satisfied their specific obligations under the current electricity agreements. However, Australia has not achieved CoAG's original objective of a fully competitive national electricity market. The energy sector's problems identified in the Council's assessment are similar to those problems recognised in the Parer Review and within the Ministerial council communiqué. Specifically, the Council encourages governments to consider the following issues (for more information, see NCC 2002b).

There is a lack of interconnection and system augmentation to address constraints within the national electricity market. The network approach adopted under the Code resulted in a regional rather than national transmission network.

The regulatory approach adopted in the national electricity market should facilitate competition at all levels of the industry, including networks. Such

an approach (referred to as the 'congestion management' approach) would provide market signals for the efficient investment in, and the efficient operation of, electricity generation, retailing, transmission and distribution services. It recognises the interrelationship between augmentation of infrastructure and new investment in generation. This approach seeks to provide an integrated set of market signals for the efficient supply of all electricity services.

While more complex than some of the alternatives, a regulatory approach that facilitates competition at all levels of the industry appears to be feasible and likely to generate a more efficient market in the long term and reduce reliance on central planning and regulatory oversight. For this reason, the Council supports moves towards the congestion management approach for the national electricity market.

More regions in the national electricity market would improve the efficiency of dispatch and wholesale pricing. The full nodal pricing approach, involving some 340 regions, has considerable appeal. The Council notes, however, the National Electricity Code Administrator's view that significant benefits from more efficient dispatch and wholesale pricing can be achieved with an approximate doubling of the number of regions, combined with refinements to improve price signals.

In transmission network pricing, under a congestion management approach the introduction of more regions would result in prices that more accurately reflect system constraints and asset use. Such an environment would enable the determination and passing through of more cost-reflective transmission network costs, because the risk of oversignalling would be diminished. The passing through of cost-reflective transmission network charges, together with greater accuracy in the wholesale market as a result of the participation of more regions, would provide an integrated set of market signals for meeting shortfalls in electricity supply. In addition, network investment and planning would be subject to the same price signals as apply to other forms of meeting demand for electricity, such as new generation and unregulated interconnection. This outcome would deal with some of the current uncertainties and inadequacies in the approval processes for new regulated interconnection.

Pricing distribution network services raises more difficult issues. Nonetheless, prices should reflect costs, so prices across regions vary to reflect cost differences, with community service obligation subsidies provided to address social concerns (particularly in rural and remote areas). Further, cost-reflective pricing within regions appears to offer benefits to large users, but may not justify the cost and effort for small users. In a competitive market, the costs and benefits of pricing variation will be balanced. Where competition is prevented, however, such safeguards do not operate.

At the retail level, current measures to isolate retail consumers from wholesale markets should be phased out. These measures impede effective demand management, foreclose opportunities for risk management by retailers, and deter entry and competition in retail markets. Governments

should agree on the most effective way of rolling out full retail contestability, which is an essential feature of the national electricity market (particularly to provide the market depth needed for effective competition).

The greatest flaw in the current institutional arrangements is the lack of an effective policy coordination, development and implementation forum. Such a body is needed to identify important refinements to the national electricity market policy architecture. A discipline on agreed policy implementation is also needed. The Council's assessment process provides an effective mechanism for governments to set clear guiding principles for reform implementation.

Further, current overlapping responsibilities between institutions under the national electricity market need to be resolved to help ensure timely and effective policy development and regulation. Such resolution would address, at a minimum, (1) those aspects of the national electricity market that are outside national coordination and (2) the scope of those aspects that are subject to Australian Competition and Consumer Commission approval. Further, the cumbersome Code change process needs to be refined to provide for more timely and effective amendments to the Code.

The Council supports reforms aimed at increasing the efficiency of the regulatory processes by reducing duplication and clarifying regulatory roles. The role of the Australian Energy Regulator will be critical in achieving this efficiency, but consistent regulatory frameworks are likely to be more significant. The Council's experience is that the existence of both State and national regulators in the energy sector is not the only cause of regulatory inconsistency. Also relevant is the requirement on regulators to apply different rules as a result of State and Territory derogations from the national arrangements. Any reform model should give priority to proposals for reducing the reliance on such derogations and creating greater uniformity in regulation.

Water

In June 2003, the Deputy Prime Minister foreshadowed that a new intergovernmental agreement on water would be considered at the CoAG meeting in August 2003. In preparation for this meeting, the Chief Executive Officers Group on water consulted with stakeholders on water reform priorities and prepared proposals for consideration by CoAG. On 29 August CoAG 'agreed that there is a pressing need to refresh its 1994 water reform agenda to increase the productivity and efficiency of water use, sustain rural and urban communities, and to ensure the health of river and groundwater systems' (CoAG 2003). CoAG agreed to develop initiatives to:

- *improve the security of water access entitlements, including by clear assignment of risks of reductions in future water availability and by returning overallocated systems to sustainable allocation levels;*

- *ensure ecosystems health by implementing regimes to protect environmental assets at a whole-of-basin, aquifer and catchment scale;*
- *ensure water is put to best use by encouraging the expansion of water markets and trading across and between districts and States (where water systems are physically shared), involving clear rules for trading, robust water accounting arrangements and pricing based on full cost recovery principles; and*
- *encourage water conservation in our cities, including better use of stormwater and recycled water. (CoAG 2003)*

CoAG's consideration of a new water agreement overlaps with the implementation of the existing agreements, which include commitments that extend to 2005. Any new agreement is likely to include components that effectively recommit to the existing water reform agreements and others that extend or refocus those agreements.

The two key priorities for water reform implementation are to:

- maintain the momentum to implement the current reform program; and
- consider areas in which the current reforms need to be extended, refocused or better defined.

Water reform is the most complex and challenging of the NCP commitments. Full and timely implementation of the reform framework will bring significant economic and environmental benefits. The 1994 water reform commitments are well progressed. The urban water reforms are now almost complete. Most urban authorities have consumption-based pricing of urban water to discourage wasteful use, full cost recovery by water service providers to help ensure appropriate investment in infrastructure, and institutional changes to ensure providers are efficient and accountable for the quality and cost of water and sewerage services. Jurisdictions have also implemented appropriate institutional arrangements in the rural sector. Further, governments have passed legislation that provides for water rights that are separate from land title, and for the sustainable management of water resources.

Yet, considerable work is needed to finalise the implementation of the current reform program, because the benefits of water reform will not be realised unless the whole package is implemented. The following issues will be priorities for the Council over the next two years as it works with governments to finalise the implementation of the current CoAG water reform agreements.

First, work is needed to ensure water rights are appropriately specified, enforceable and fully tradeable. Specifying the rights involves providing information on the volume and availability of water, and this information is not available until water management plans are in place. Enforceability

requires the ownership of the right to be enforced, including the rights of third party interests such as mortgagors. An effective registry system is critical to the protection of third party interests. Transferability requires systems for water trading to operate efficiently. For permanent intrastate and interstate trades to occur by 2005, governments need to have at least finalised water planning processes to set the rules for permanent water trading, established a national water register, removed unjustified barriers to trade, implemented appropriate environmental safeguards, streamlined and harmonised the approaches to administering trade and developed exchange rates across the States and Territories.

Second, the provision of appropriate water allocations for the environment is some way off. Jurisdictions committed to the substantial completion of environmental water allocations for all river systems and groundwater resources by 2005. The Council is working with jurisdictions to ensure planning processes do not extend unnecessarily beyond the 2005 deadline. Because the water agreements recognise the existing rights of other users, however, it will often be years after the completion of water plans before the recommended environmental flows are achieved.

Third, some jurisdictions do not have institutional arrangements that provide for transparent price setting. There are considerable benefits in applying the CoAG pricing principles via an independent pricing regulator. Not only do those States with independent regulation have more success in achieving appropriate pricing structures and levels, with transparency in community service obligations and cross-subsidies, but their water authorities appear to be reducing their costs more rapidly than in those States without independent regulation. The Council encourages all governments to adopt independent price regulation for water businesses.

The current debate on water reform spans many issues relevant to water rights, trading, environmental allocations and institutional arrangements. Many of these issues could be accommodated under the existing agreements. There are four areas, however, in which the debate is beyond the scope of the existing agreements:

- principles for sharing adjustment costs and providing adjustment assistance;
- the inclusion of environmental costs in water prices;
- the requirement for national consistency in water rights, pricing methodologies and trading rules; and
- the recycling and re-use of wastewater.

The current water agreements have no provisions that specify who should pay for a reduction in the amount of water available to water users as a result of increasing the amount of water available to the environment. A discussion paper prepared for the Council (Cope 2002) outlined a model for allocating such costs. That paper noted that the approach to sharing environmental

costs should be considered separately for each case because the appropriate balance will be affected by whether:

- charging those who cause the environmental damage would reduce the environmental effects of water use;
- any other policy objectives would be affected by the decision on who should bear the cost of any reductions in water allocations; and
- any equity issues should be taken into account when deciding who should bear the costs of any reductions in water allocations.

The preceding section on managing the process of change noted an approach to managing adjustment costs that could be applied to the communities affected by water reforms. The water pricing guidelines require that a water business should, for viability, recover the cost of any externalities (environmental and natural resource management costs from water use) that are attributable to and incurred by it. The guidelines also require a transparent treatment of externalities in the determination of prices. They do not specify which environmental cost should be attributed to the water business; neither do they address how water users and the community should share other environmental costs.

The current water agreements give each government the flexibility to decide how to implement water reform, consistent with the overarching CoAG agreement. They require sufficient national consistency to allow interstate trade to operate, but they do not require a uniform approach. The Murray–Darling Basin Commission is reviewing the impediments to interstate trade. At a minimum, State and Territory governments should address these impediments; in the longer run, however, improving the efficiency of trade and reducing the cost of trade may require more uniformity in trading arrangements.

The agreements do not include obligations to recycle and re-use water. They required the Agriculture and Resources Management Council of Australia and New Zealand, the Australian and New Zealand Environment and Conservation Council, and the Ministerial Council for Planning, Housing and Local Government to examine (1) the management and ramifications of making greater use of wastewater in urban areas and (2) strategies for handling storm water (including its use) but they do not require governments to implement specific reforms. The pricing and institutional reforms, and the focus on the environment, however, are likely to encourage water recycling. If governments want to adopt explicit obligations on recycling and re-use, then those obligations would need to be included in a new water agreement.

Finally, the Council considers that any proposed model for future water reform should address the difficult question of the principles for balancing the needs of water users and the environment. Currently, different States adopt different approaches. Victoria looks at the costs and benefits of environmental mitigation work, while New South Wales allows water planning committees to address the trade-offs between water users and the environment.

There are several possible approaches. One option involves requiring decision makers to pursue the fastest practicable path to meet environmental outcomes determined by the best available science, and to judge whether slower restoration of flows is warranted, based on rigorous and transparent assessments of the public interest. Such an approach would also involve making publicly available, information on the scientific assessments of environmental requirements, the justification of trade-offs and the environmental impact of any trade-offs. This approach would maintain transparency in water management with an overall objective of meeting environmental outcomes, but allow flexibility in the pace of change. Including principles in a new water agreement to guide trade-offs in setting the appropriate environmental responses would help clarify a major area of debate among stakeholders. Greater consistency in decisions on environmental flows in interconnected river systems would assist Australia to address environmental questions.

Continuing obligations under the general NCP agreements

The NCP reforms include the following general reform obligations:

- considering where it is appropriate to provide prices oversight of State and Territory government business enterprises;
- improving the performance of government businesses by undertaking structural reform and introducing competitive neutrality so government businesses do not enjoy any unfair advantages or disadvantages over private businesses;
- widening Australia's laws on restrictive trade practices by extending the coverage of the Trade Practices Act to all businesses in Australia; and
- reviewing and, where appropriate, reforming all legislation that restricts competition, and ensuring any new restrictions provide a net community benefit.

Governments are well progressed in implementing all of these reforms, but there are two ongoing issues for the Council:

1. ensuring compliance with ongoing commitments, such as ensuring any new restrictions on competition are assessed as meeting the CPA guiding principle, reviewing the structure and regulation of government monopolies before privatising the enterprise or introducing competition,

and implementing the recommendations of governments' competitive neutrality⁴ complaints mechanisms; and

2. dealing with the reform areas in which governments have not complied with their obligation to review and reform existing legislation that restricts competition.

Ongoing commitments

Apart from the requirement to review and reform existing legislation, most of the general commitments in the competition agreements are ongoing. In particular, the agreements oblige governments to show that proposed new legislation that restricts competition provides a net benefit to the community and that the restriction is necessary to achieve the objectives of the legislation.

Because the 2003 NCP assessment aimed to finalise the review and reform of the stock of legislation, the obligations covering new legislation assume an elevated importance. It would be undesirable for unwarranted restrictions on competition to be removed from existing legislation, only to resurface in new legislation.

In late 2002, the Council wrote to all governments noting that the CPA obligations require governments to have in place legislation gatekeeping arrangements that maximise the opportunity for regulatory quality. The Council outlined that it considered that the following principles underpin effective gatekeeping arrangements.

- All legislation that contains nontrivial restrictions on competition should be subject to formal regulatory impact assessment to determine the most effective and efficient approach to achieving the government's regulatory objective, including alternatives to regulation. The impact analysis must explicitly consider competition impacts.
- All government agencies that review or make regulations that restrict competition must follow guidelines for the conduct of regulation impact analysis.
- An independent body with relevant expertise advises agencies on when and how to conduct regulatory impact assessment. The body is empowered to examine regulatory impact assessments and to advise the Cabinet on whether they provide an adequate level of analysis.
- The regulatory impact assessment body monitors and reports annually on compliance with the regulation impact analysis guidelines.

⁴ Competitive neutrality involves removing any unfair advantages government businesses may have when they are in competition with the private sector.

All governments have established arrangements for gatekeeper scrutiny of the competition impacts of new and amended legislation. The NCP obligations also require governments to consistently apply that mechanism. The Council's assessments and recommendations on future NCP payments will thus consider whether new restrictions on competition are introduced only when they are consistent with CPA commitments. To facilitate this assessment, the Council encourages jurisdictions to include in their NCP annual reports outcomes of their review of new restrictions on competition. Such reporting would allow the Council to consider overall performance; otherwise the Council will need jurisdictions to provide their public interest case for any new restrictions on competition.

In recent NCP assessments the Council has raised a number of questions on new restrictions on competition. State and Territory gatekeeping arrangements are thus not yet sufficiently robust to guarantee appropriate outcomes. The need for the Council to scrutinise new restrictions on competition is expected to decrease over time.

Similarly, the application of competitive neutrality and the operation of complaints-handling mechanisms are ongoing obligations under the NCP agreements. While the competitive neutrality reforms are substantially complete, a few issues remain in terms of the coverage in some States and Territories and the timeliness in which some competitive neutrality complaints are handled. The Council expects that the compliance with competitive neutrality will continue to improve as organisations become more familiar with their competitive neutrality obligations.

Outstanding issues

While considerable progress has been made in reviewing and reforming legislation that contains restrictions on competition, issues remain in areas such as agricultural marketing arrangements, liquor licensing, pharmacies, professional regulation and taxi regulation. Many of these issues are expected to be resolved over the next couple of years, and the Council will monitor and report on progress in its future NCP assessments.

In addition, it is timely to consider the success of the legislation review program and whether any remaining restrictions on competition should be the subject of further review and reform. The Council would support the Australian Government conducting an independent review to identify any significant outstanding legislative restrictions on competition.

B1 Access to infrastructure (output 1)

An access regime gives businesses (or individuals or other organisations) a legal avenue through which to share the use of infrastructure services owned by another business. An electricity generating company, for example, may be able to gain a legal right to transmit its electricity through another company's electricity grid. The rationale for access regulation is that the owners of major infrastructure facilities often have substantial market power that they can exploit.

Major infrastructure facilities such as airports, roads, rail networks, gas pipelines, electricity grids and some communications networks tend to be *natural monopolies* — that is, a single facility can meet market demand at less cost than two or more facilities. Development of new facilities would be unnecessary and wasteful. Infrastructure owners can also enjoy a strategic position in an industry because access to these facilities may be essential for businesses operating in upstream or downstream markets. Electricity generators, for example, must have access to an electricity grid to deliver their product. Infrastructure operators can seek to exploit their position by charging monopolistic prices to businesses using the infrastructure. This behaviour can harm competition in related markets and be detrimental to consumers. If an electricity grid owner, for example, were to charge monopolistic prices, then electricity generators would suffer reduced demand, decreasing the scope for competition between generators. Lower competition can mean that electricity consumers pay more for power.

If the business that owns or operates the infrastructure does *not* also have interests in upstream or downstream markets, then the public policy issue is one of dealing with monopoly pricing. An access regime is one means of restraining prices and maintaining output in these situations; in principle, there are also other means, such as direct monitoring and control of prices and service standards.

More complex problems arise if a business that operates essential infrastructure also has interests in upstream or downstream markets. The business still has incentives to charge monopolistic prices to users of its infrastructure but it may also discriminate against its competitors, offering them access only on inferior terms and conditions, or even denying them access.

To address these problems, governments have been introducing legislated access regimes. Allowing access to infrastructure facilities encourages new businesses to enter upstream and downstream markets. This entry instils greater competition in those markets, promoting more efficient use of

infrastructure. Consumers will experience a wider choice of supplier, with the likelihood of a better range of services and/or lower prices.

Part IIIA of the *Trade Practices Act 1974*

Part IIIA of the *Trade Practices Act 1974* establishes principles to facilitate competitive outcomes in markets that rely on natural monopoly infrastructure. It sets out:

- the conditions under which businesses have a right of access to services provided by certain infrastructure facilities; and
- the roles and responsibilities of the government bodies that administer the access regime.

Part IIIA provides a regulatory framework for access negotiation supported by credible dispute resolution procedures.

Pathways to access

Part IIIA sets out the following three pathways for access to infrastructure services.

- *Declaration (and arbitration)*. A business that wants access to a particular infrastructure service can apply to have the service ‘declared’. If the service is declared, then the business and the infrastructure operator try to negotiate terms and conditions of access. If they fail to reach agreement, then they determine the terms and conditions through legally binding arbitration.
- *Certified (effective) regimes*. Where an ‘effective’ access regime already exists, a business seeking access must use that regime. Under part IIIA, following a recommendation from the National Competition Council, the designated Commonwealth Minister can certify an access regime as being effective. The criteria for assessing whether an access regime is effective focus on whether the regime has an appropriate framework to promote competitive outcomes.
- *Undertakings*. Infrastructure operators can make a formal undertaking to the Australian Competition and Consumer Commission, setting out the terms and conditions on which they will provide access to their services. If accepted, these undertakings are legally binding, so other businesses can use them to gain access.

In December 2002, the Council updated its guide to part IIIA to assist parties interested in access issues. The guide comprises three parts. Each part is available on request from the Council or on its website at www.ncc.gov.au. The Council plans to update the guide periodically, making the relevant version available on its website. Part A examines the rationale for access and provides an overview of the pathways to access under part IIIA. Parts B and C provide more detailed information on the access pathways in which the Council plays a role: that is, part B covers the declaration pathway, while part C illustrates the Council's approach to the certification of State and Territory access regimes.

Overview of declaration activities

During 2002-03, the Council received one new application for the declaration of services provided by infrastructure facilities. This was an application by Virgin Blue Airlines Pty Ltd (Virgin Blue) for declaration of certain airside services at Sydney Airport. Other activity during 2002-03 related to ongoing declaration applications by:

- AuIron Energy Limited for declaration of the service provided by the Wirrida–Tarcoola rail track (lodged on 12 September 2001);
- Freight Australia for declaration of services provided by Victorian rail lines (lodged 1 May 2001); and
- Normandy (Normandy Power Pty Ltd, NP Kalgoorlie Pty Ltd and Normandy Golden Grove Operations Pty Ltd) for declaration of certain services provided by Western Power Corporation (lodged on 9 January 2001).

These matters are discussed below. Table B1.1 summarises all declaration applications received since the enactment of part IIIA.

Virgin Blue Airlines Pty Ltd's application for declaration of airside services at Sydney Airport

On 1 October 2002, the Council received an application under part IIIA of the Trade Practices Act from Virgin Blue for a recommendation to declare the following services:

1. the use of runways, taxiways, parking aprons and other associated facilities (airside facilities) necessary to allow aircraft carrying domestic passengers to:
 - (a) take off and land using the runaways at Sydney Airport; and

- (b) move between the runways and the passenger terminals at Sydney Airport (airside service); and
2. the use of domestic passenger terminals and related facilities for the purposes of processing arriving and departing domestic airline passengers and their baggage at Sydney Airport (domestic terminal service).

In December 2002, Virgin Blue withdrew its application for declaration of the domestic terminal service after reaching a commercial agreement on terminal access with the service provider, Sydney Airports Corporation Limited (SACL).

The Council released an issues paper in November 2002 asking for public comment on matters arising from Virgin Blue's application. It received 16 submissions. In forming its draft recommendation, the Council took into account these submissions and information obtained in response to requests for further information, information provided during meetings with specific parties and organisations, and other publicly available information.

The Council faced two key issues in considering whether the Airside Service should be declared. The first was whether access through declaration would promote competition in a dependent domestic passenger market (criterion (a) in s. 44G). The Council concluded that SACL had the ability and incentive to exercise market power by increasing charges or engaging in other conduct in respect of the airside service. It recognised, however, that SACL's incentive to exercise market power was tempered by a desire to increase non-aeronautical revenue (such as revenue from airport retail lease rentals) by encouraging increased passenger traffic at Sydney Airport. SACL's incentive to exercise market power was also tempered by the Australian Government's threat to re-introduce price controls for airports if there is evidence of a misuse of market power. The credibility of this threat is supported by the prices monitoring regime (under the *Prices Surveillance Act 1983*) in place for aeronautical services and the Government's commitment to review the regulatory arrangements for airports by mid-2007.

The Council concluded that some incentive remains for SACL to exercise its market power. In respect of price, for example, SACL would have an incentive to price the airside service above competitive levels but below a level that is so high that the threat of re-regulation risks becoming a reality.

The Council considered that the adverse effect on competition in the domestic passenger market of SACL exercising its market power within an unconstrained range would be material because passenger numbers on routes into and out of Sydney would be expected to fall in response to such a price increase. The fall in passenger numbers would be greater among more price-sensitive passengers targeted by low cost carriers.

The second key issue was whether access to the airside service would not be contrary to the public interest and, in particular, whether the costs of declaration would outweigh the benefits (criterion (f) in s.44G). The benefits of declaration are the unlocking of the potential for competition to be

promoted in markets such as the domestic passenger market. The costs of declaration include the forgone benefits of not allowing the current light-handed regulatory approach of prices monitoring against the threat of re-regulation to continue, and the indirect and direct costs of access regulation. While the Council considered these costs to be material, it could not be affirmatively satisfied, based on the available evidence, that the costs of declaration outweigh the benefits.

The Council's draft recommendation was that the airside service should be declared under part IIIA of the Trade Practices Act. The Council sought the views of interested parties on any matter raised in the draft recommendation or the application. It will take these views into account in preparing its final recommendation.

AuIron Energy Limited's application for declaration of the service provided by the Wirrida–Tarcoola rail track

On 12 September 2001, the Council received an application from AuIron Energy Limited for declaration of the service provided by the Wirrida–Tarcoola rail track. The facilities used to provide the services on the Wirrida–Tarcoola rail track are owned by the Australian Rail Track Corporation Limited and leased to the Australasia Pacific Transport Consortium, which is managed by Asia Pacific Transport Pty Ltd. Asia Pacific Transport is the service provider and has management control of the service.

The service under application comprised a point-to-point rail track service provided by the use of the facilities under lease to Asia Pacific Transport. The rail track forms part of the Tarcoola–Darwin rail track, which is under construction north of Alice Springs. Third party access to the Tarcoola–Darwin rail track service is regulated under the Australasia Railway Third Party Access Regime, which is contained in the AustralAsia Railway (Third Party Access) Code, which is a schedule to the *AustralAsia Railway (Third Party Access) Act 1999*. The Commonwealth Treasurer certified the regime as being effective under s. 44N of the Trade Practices Act in March 2000, but the Wirrida–Tarcoola rail track had not been prescribed under s.2 of the access code.

The Council forwarded its final recommendation to the Commonwealth decision-maker in June 2002, recommending that the Wirrida–Tarcoola rail track be declared under part IIIA. The Council was satisfied that the application by AuIron met all of the criteria in s. 44G(2) of the Trade Practices Act. The Wirrida–Tarcoola rail track displays features of natural monopoly infrastructure. Asia Pacific Transport had market power (which was not effectively constrained by competition from road transport) that could be used to hinder competition in the bulk freight transport services market.

On 4 September 2002, the Minister declared the service provided by the Wirrida–Tarcoola rail track for five years, effective from 27 September 2002. The Minister was satisfied that all of the criteria in s. 44H of the Trade Practices Act were met.

On 18 October 2002, Asia Pacific Transport applied under s. 44K(1) of the Trade Practices Act to the Australian Competition Tribunal for a review of the declaration by the Minister. On 10 March 2003, the tribunal set aside the Minister's decision to declare the service provided by the Wirrida–Tarcoola rail track on the procedural basis that there was no probative material before it upon which the Tribunal could be affirmatively satisfied of the matters set out in s. 44H(4) of the Trade Practices Act.

Freight Australia's application for declaration of rail track services provided through the Victorian intrastate rail network

On 1 May 2001, the Council received an application from Freight Victoria Limited, a private company trading as Freight Australia, for declaration of services provided by the rail lines that it leases from the Victorian Government (excluding services provided by sidings and some branch lines). The Victorian rail access regime regulates access to all rail lines leased to Freight Australia, including sidings and branch lines, but only for the purposes of transporting freight.

Following a public process that included receiving submissions from interested parties, the Council forwarded its recommendation to the Commonwealth Minister in December 2001. The Minister accepted the Council's recommendation and decided on 1 February 2002 not to declare the service that was the subject of the application.

In February 2002, Freight Australia applied to the Australian Competition Tribunal for a review of the Minister's decision. In August 2002, it withdrew this application.

Normandy's application for declaration of electricity services provided through Western Power's south west integrated electricity transmission and distribution system

On 9 January 2001 the Council received an application from Normandy (Normandy Power Pty Ltd, NP Kalgoorlie Pty Ltd and Normandy Golden Grove Operations Pty Ltd) for declaration of certain electrical transmission and distribution services provided by Western Power Corporation. The application covered electrical transmission and distribution systems situated in the south west of Western Australia (known as the south west interconnected system), servicing the area bounded by Kalbarri in the north, Kalgoorlie in the east, Albany in the south and the western coast of Western Australia.

The Council released a discussion paper, consulted with interested parties and sought submissions on the application. On 7 May 2001, Western Power instituted proceedings in the Federal Court in Perth against the Council and Normandy, seeking to prevent the Council from considering Normandy's application for declaration. Western Power argued that the application

services were not 'services' within the meaning of part IIIA. The argument relied on the production process exemption.

In August 2002, Western Power and Normandy settled a broader commercial dispute between them, and Normandy withdrew its application for declaration. Western Power then discontinued its proceedings against Normandy and the Council. The application to the Council and the proceedings in the Federal Court were withdrawn before the production process exemption was considered.

Overview of certification activities

During 2002-03, the Council received no new applications from State and Territory governments seeking to have their regimes 'certified' as being effective under part IIIA. One matter ongoing at 30 June 2003 related to Queensland's gas access regime. Two other matters concluded during 2002-03, related to Victorian rail and South Australian ports.

Of the 15 certification applications made since the enactment of part IIIA the Council recommended that 11 be certified as effective. Table B1.2 summarises all certification applications received since the enactment of part IIIA.

Victorian rail access regime

On 27 July 2001, the Council received an application from the Victorian Government for certification of its rail access regime. Some rail track covered by this regime was also covered by a declaration application lodged by Freight Australia (see section on declaration).

The Victorian rail access regime began operation on 1 July 2001 to regulate access (for carrying freight only) to:

- the intrastate rail line network leased to Freight Australia;
- the freight rail lines into Melbourne leased to Freight Australia;
- part of the metropolitan rail network leased to Bayside Trains;
- the South Dynon Terminal leased to National Rail; and
- the Dynon Terminal leased to Freight Australia.

The Council released a position paper on the application that identified concerns relating to the effectiveness of the Victorian regime. Subsequently, Victoria addressed all these concerns by progressively submitting groups of amendments for Council consideration. The Council confirmed that the

amendments met all its concerns as they were submitted, and it approved the final group of amendments.

On 30 August 2002, the Victorian Government withdrew the application for certification of the Victorian regime to allow it to consider alternative arrangements that may better meet the objectives of the infrastructure owner and users. In the meantime the Victorian regime remains in force.

South Australian ports and maritime services access regime

In August 2001 the Council received an application from the South Australian Government for certification of its ports and maritime services access regime. The regime provides for third party access to certain maritime services provided at prescribed ports. These services include:

- vessel access to ports;
- pilotage services;
- berthing rights;
- port services for loading and unloading vessels; and
- the storage of goods.

The Council released an issues paper (29 November 2001) that identified issues to be resolved before the Council could make a final recommendation. These issues related to:

- setting prices for essential maritime services (except for the bulk handling facilities) through a Ministerial Determination; and
- whether the coverage of the access regime is sufficiently wide, for example, to include sufficient bulk handling infrastructure to provide the service of loading ships.

The South Australian Government withdrew its application for certification on 20 November 2002. The regime continues to operate.

Queensland gas access regime

In September 1998 the Council received Queensland's application for certification of its gas access regime. While the regime was submitted to the Council as an application of the National gas code, it incorporated significant derogations from that code. The derogations covered major transmission pipelines, affecting issues such as access pricing and information provided to access seekers.

The Council forwarded its recommendation on the regime to the Commonwealth Minister in February 2001. The Minister received further

information from the Queensland Government and the owners of the derogated pipelines. The Minister sought the Council's advice on whether this information raised new issues of relevance to the consideration of effectiveness.

To properly advise the Minister, the Council withdrew its February 2001 recommendation so as to consider the new information. The Council released its new draft recommendation in February 2002, recommending against certification. It received submissions on its draft recommendation until 7 June 2002.

The Council forwarded its final recommendation on certification of the Queensland gas access regime to the Minister on 21st November 2002. The Minister decided to publicly release the Council's recommendation before making a decision. The Council had recommended that the Queensland regime did not satisfy the CPA clause 6 principles for the services of all covered pipelines in the State. As such, the Council considered that the regime was not an effective access regime and recommended against certification.

At the time of publication of this annual report the Minister was still considering his decision. The Queensland regime was enacted in May 2000. While not certified, the provisions of the regime (including obligations on pipeline owners) continue to operate.

Overview of coverage activities under the national gas code

The Council has ongoing roles under the national gas code. In particular, it considers applications for coverage of a pipeline and revocation of coverage. The Council understands the need for certainty about the likely coverage of new infrastructure and is available to advise investors on whether a proposed new pipeline would meet the coverage criteria. Alternatively, investors may seek coverage before construction of a new pipeline, by submitting an access arrangement to the regulator or adopting the competitive tender process of the national gas code. Conversely, revocation issues may arise from technological innovation and changing market conditions, for example.

In assessing both coverage and revocation applications, the Council must consider whether the relevant pipelines meet or continue to meet the coverage criteria in the national gas code. The Council must then make a recommendation to the relevant State, Territory or Commonwealth Minister.

During 2002-03, the Council received no new applications for coverage and three new applications for revocation of coverage. The latter related to the Mildura distribution system, the City Gate–Berrimah pipeline and the

Goldfields gas pipeline. Other national gas code work during the year related to the revocation application for the Moomba–Sydney pipeline.

From the enactment of the national gas code to 30 June 2003 there were 27 applications: 26 for revocation and one for coverage. Of the revocation applications, the Council recommended that 18 pipelines be revoked and seven not be revoked; one is being considered. Table B1.3 summarises the Council's coverage and revocation work since the introduction of the national gas code.

Revocation of Goldfields gas pipeline (Western Australia)

On 27 March 2003, the Council received an application from Goldfields Gas Transmission Pty Ltd to revoke coverage of the Goldfields gas pipeline. The pipeline is owned by an unincorporated joint venture comprising Southern Cross Pipelines Australia Pty Limited, Southern Cross Pipelines Australia Pty Ltd and Duke Energy WA Power Pty Ltd. Goldfields Gas Transmission operates the pipeline for and on behalf of each of the owners.

The pipeline is 1380 kilometres long and transports natural gas from the Dampier–Bunbury Natural Gas Pipeline Compressor Station One at Yarraloola to Kalgoorlie, via the East Pilbara and North East Goldfields regions of Western Australia. The Goldfields gas pipeline is a covered pipeline listed in schedule A of the national gas code.

At 30 June 2003, the Council was considering the application and expected to release its draft recommendation by 4 September 2003.

Revocation of City Gate–Berrimah pipeline (Northern Territory)

On 30 January 2003, the Council received an application from NT Gas Distribution Pty Ltd to revoke coverage of the City Gate–Berrimah pipeline. The pipeline runs 19 kilometres and that transports natural gas from the Darwin City Gate to Berrimah, near the Darwin Trade Development Zone. Gas is then distributed from two offtake stations to a small number of industrial/commercial users. The reticulation system is owned by NT Gas Distribution, which also supplies a combined transportation/retail service to end users. The natural gas supplied in Darwin is transported from the Central Australian natural gas fields via the Amadeus Basin–Darwin pipeline, which is the major transmission pipeline in the Northern Territory and is the only source of gas for the Darwin area. Over 90 per cent of gas transported through the Amadeus Basin–Darwin pipeline is used for electricity generation, either en route to Darwin or at the Channel Island power station.

The Council forwarded its final recommendation to the Northern Territory Minister in April 2003. It recommended revocation of coverage of the City Gate–Berrimah pipeline. The Council was not satisfied that the owner and operator have the ability and incentive to exercise market power to hinder

competition in the downstream market, because the market is very small and the owner and operator have an incentive to promote increased gas sales. Continued coverage of the City Gate–Berrimah pipeline was unlikely to promote competition in the downstream market for natural gas sales in Darwin. Further, no third party intended to seek access to the pipeline, and regulated access appeared to have no benefit — matters that the Council weighed against the costs of regulated access.

In May 2003, the Northern Territory Minister revoked coverage of the City Gate–Berrimah pipeline.

Revocation of the Mildura distribution system (Victoria)

On 23 September 2002, the Council received an application from Envestra Limited to revoke coverage of the Mildura distribution system. The system serves customers in the area of Mildura and the nearby townships of Merbein, Red Cliffs and Irymple. It supplies a total of 890 customers with gas that originates in the Cooper Basin and is transported through the Moomba–Adelaide pipeline and then the Riverland and Mildura transmission pipelines. The Mildura distribution system delivers about 254 terajoules of gas annually. Origin Energy is responsible for retailing the gas. The pipeline is a distribution pipeline that became covered through a competitive tender process approved by the Office of the Regulator-General (now the Essential Services Commission) under transitional provisions of the *Gas Pipeline Access (Victorian) Act 1998*.

In December 2002, the Council released its final recommendation, which was that coverage be revoked. The Council was not satisfied that regulation under the national gas code would promote competition in the relevant gas sales market. The applicant was the sole supplier of gas through the distribution system, and there was no evidence that any third party required, or was likely to require, access in the short to medium term. Further, the cost of regulation would be likely to outweigh any benefits, and that regulation would be contrary to the public interest. On 27 December 2002, the Victorian Minister revoked coverage of the Mildura distribution system.

Revocation of the Moomba–Sydney transmission pipeline and the Dalton–Canberra transmission pipeline (New South Wales)

On 18 June 2001 Eastern Australian Pipeline Limited applied for revocation of two pipelines within the Moomba–Sydney pipeline system:

- the Moomba–Wilton pipeline; and

- the Dalton–Canberra pipeline.⁵

On 14 November 2002, the Council recommended to the Commonwealth Minister that coverage of the pipelines not be revoked. The Council recommended that the main Moomba–Sydney pipeline and the Canberra lateral line should continue to be regulated under the national gas code because these pipelines have substantial market power. The Council found that the Moomba–Sydney pipeline has the ability and incentives to charge monopoly prices. It reported evidence that current Moomba–Sydney pipeline tariffs may be about 30 per cent above competitive rates, adding significantly to delivered gas prices in New South Wales and the ACT. The Council also found that the Moomba–Sydney pipeline might have incentives to distort competition in downstream markets due to AGL’s interest in both the Moomba–Sydney pipeline and AGL Wholesale Gas Limited.

At 30 June 2003, the Minister was still considering the final recommendation.

⁵ Eastern Australian Pipeline Limited previously applied for revocation in 2000. Then the Minister decided not to revoke coverage.

Table B1.1: Summary of declaration applications to the Council

<i>Applicant</i>	<i>Service</i>	<i>Council recommendation</i>	<i>Minister's decision</i>	<i>Outcome</i>
Australian Union of Students (April 1996)	Payroll deduction service provided by Department of Education, Employment, Training and Youth Affairs	Not to declare (June 1996)	Not to declare (August 1996)	The union applied to the Australian Competition Tribunal for a review of the Minister's decision. The tribunal determined not to declare (July 1997).
Futuris Corporation (August 1996)	Western Australian gas distribution service			The application was withdrawn.
Australian Cargo Terminal Operators (November 1996)	Qantas ramp and cargo terminal services at Melbourne and Sydney international airports (two applications)			The application was withdrawn.
Australian Cargo Terminal Operators (November 1996)	Ansett ramp and cargo terminal services at Melbourne and Sydney international airports (two applications)			The application was withdrawn.
Australian Cargo Terminal Operators (November 1996)	Particular airport services at Sydney International Airport (three applications)	To declare (May 1997)	To declare (July 1997)	The Federal Airports Corporation applied to the Australian Competition Tribunal for a review of the Minister's decision. The tribunal determined to declare the services for five years from 1 March 2000.
Australian Cargo Terminal Operators (November 1996)	Particular airport services at Melbourne International Airport (three applications)	To declare (May 1997)	To declare for twelve months (July 1997)	Services were declared from August 1997 until 9 June 1998, and since have been subject to access provisions of the <i>Airports Act 1996</i> .
Carpentaria Transport (December 1996)	Queensland rail services, including above-rail services	Not to declare (June 1997)	Not to declare (August 1997)	Carpentaria applied to the Australian Competition Tribunal for a review of the Minister's decision. It then withdrew the application for review.

(continued)

Table B1.1 continued

<i>Applicant</i>	<i>Service</i>	<i>Council recommendation</i>	<i>Minister's decision</i>	<i>Outcome</i>
Standardised Container Transport (February 1997)	New South Wales rail track services (Sydney to Broken Hill)	To declare (June 1997)	Deemed not to be declared due to expiry of the sixty-day limit (August 1997)	Standardised Container Transport applied to the Australian Competition Tribunal for a review of the Minister's decision. It then withdrew the application for review following successful access negotiations.
New South Wales Minerals Council (April 1997)	New South Wales rail track services in the Hunter Valley	To declare (September 1997)	Deemed not to be declared due to expiry of the sixty-day limit (November 1997)	New South Wales Minerals Council applied to the Australian Competition Tribunal for a review of the Minister's decision. It then withdrew the application for review following the certification of the New South Wales Rail Access Regime.
Standardised Container Transport (July 1997)	(1) Western Australia's rail track services, (2) arriving/ departing services, (3) marshalling/shunting service, (4) marshalling/shunting access, (5) fuelling service (five applications)	To declare the rail track service; not to declare other services (November 1997)	Not to declare any of the five services (January 1998)	Standardised Container Transport applied to the Australian Competition Tribunal for review of the Minister's decision. The application for review was withdrawn following successful access negotiations.
Robe River (August 1998)	Hamersley rail track services			The Federal Court decided that the service was not within part IIIA of the Trade Practices Act (June 1999). The Federal Court decision was appealed. Robe withdrew the application for declaration before the Full Federal Court hearing. The appeal was stayed.
Normandy Power Pty Ltd, NP Kalgoorlie Pty Ltd and Normandy Golden Grove Operations Pty Ltd (Normandy) (January 2001)	Electricity services provided through Western Power's south west electricity networks			Western Power and Normandy settled the broader commercial dispute between them. Normandy withdrew its application for declaration.

(continued)

Table B1.1 continued

<i>Applicant</i>	<i>Service</i>	<i>Council recommendation</i>	<i>Minister's decision</i>	<i>Outcome</i>
Freight Australia (May 2001)	Rail track services provided through Victoria's intrastate rail network	Not to declare (December 2001)	Not to declare (February 2002)	Freight Australia applied to the Australian Competition Tribunal for a review of the Minister's decision. It then withdrew the application for review.
Portman Iron Ore Limited (August 2001)	Rail track services provided through the Koolyanobbing–Esperance rail track			The application was withdrawn.
AuIron Energy Limited (November 2001)	Rail track services provided through the Wirrida–Tarcoola rail track	To declare (July 2002)	To declare (September 2002)	In October 2002, APT (operator of the rail track) applied to the Australian Competition Tribunal for a review of the Minister's decision. In March 2003, the tribunal set aside the Minister's decision on the procedural basis that there was no probative material before it upon which it could be affirmatively satisfied of the matters in s.44H(4) of the Trade Practices Act.
Virgin Blue Airlines Pty Ltd (October 2002)	The use of runways, taxiways, parking aprons and other associated facilities necessary to allow aircraft carrying domestic passengers to: (1) take off and land using the runways at Sydney Airport; and (2) move between the runways and the passenger terminals at Sydney Airport (airside service)	Draft recommendation to declare (June 2003); final recommendation is being considered.		

Table B1.2: Summary of certification applications to the Council

<i>Application</i>	<i>Service</i>	<i>Council recommendation</i>	<i>Minister's decision</i>	<i>Outcome</i>
New South Wales gas distribution networks regime (interim regime, October 1996)	Access to services of relevant gas pipelines	To certify (May 1997)	To certify (August 1997)	Certified (but intended only as an interim regime before the introduction of the national gas code)
Victorian commercial shipping channels (December 1996)	Access to commercial shipping channels leading into Melbourne Port	To certify (May 1997)	To certify (August 1997)	Certified for five years
New South Wales rail (June 1997)	Access to rail track services	To certify (April 1999)	To certify (November 1999)	Certified until 31 December 2000
South Australian gas access regime (June 1998)	Access to services of relevant gas pipelines	To certify (September 1998)	To certify (December 1998)	Certified for 15 years
Queensland rail (June 1998)	Access to rail track services			The Queensland government withdrew the application (February 1999).
Queensland gas access regime (September 1998)	Access to services of relevant gas pipelines	Sent to Minister (February 2001), but not publicly available	The Minister notified the Council that he received a substantial amount of new material from the Queensland Government and the owners of four gas pipelines subject to derogations under the regime. The Minister sought the Council's advice on whether this material raised new issues of relevance to his consideration of effectiveness.	The Council withdrew its February 2001 recommendation so as to consider new information. The Council forwarded its final recommendation (publicly available), that the regime is not effective, to the Minister on 21 November 2002. At 30 June 2003 the Minister was considering his decision.

(continued)

Table B1.2 continued

<i>Application</i>	<i>Service</i>	<i>Council recommendation</i>	<i>Minister's decision</i>	<i>Outcome</i>
New South Wales gas access regime (October 1998)	Access to services of relevant gas pipelines	To certify (March 1999)	To certify (March 2001)	Certified for 15 years. Decision had been delayed pending resolution of cross-vesting issues.
Australian Capital Territory gas access regime (January 1999)	Access to services of relevant gas pipelines	To certify (July 2000)	To certify (September 2000)	Certified for 15 years
Western Australian gas access regime (March 1999)	Access to services of relevant gas pipelines	To certify (February 2000)	To certify (May 2000)	Certified for 15 years
Western Australian rail (February 1999)	Access to rail track services			The Western Australian Government withdrew the application.
Northern Territory/South Australian rail (March 1999)	Access to rail track services from Tarcoola to Darwin	To certify (February 2000)	To certify (March 2000)	Certified until 31 December 2030
Victorian gas access regime (July 1999)	Access to services of covered pipelines	To certify (April 2000)	To certify (March 2001)	Certified for 15 years
Northern Territory electricity access regime (December 1999)	Access to services of electricity distribution networks	To certify (December 2001)	To certify (March 2002)	Certified for 15 years
Northern Territory gas access regime (March 2001)	Access to services of covered pipelines	To certify (June 2001)	To certify (October 2001)	Certified for 15 years
Victorian rail access regime (July 2001)	Access to rail track services			The Victorian Government withdrew the application.
South Australian ports and maritime services access regime (August 2001)	Access to prescribed port and maritime services			The South Australian Government withdrew the application.

Table B1.3: Summary of coverage and revocation applications under the national gas code to the Council

<i>Applicant</i>	<i>Pipeline</i>	<i>Decision sought</i>	<i>Council recommendation</i>	<i>Minister's decision/outcome</i>
Southern Cross Pipelines (March 1999)	Goldfields gas transmission pipeline to Keith power station (Western Australia)	Revocation	To revoke coverage (June 1999)	To revoke coverage (July 1999)
Southern Cross Pipelines (March 1999)	Goldfields gas transmission pipeline- Leinster power station (Western Australia)	Revocation	To revoke coverage (June 1999)	To revoke coverage (July 1999)
Southern Cross Pipelines (March 1999)	Kalgoorlie-Kambalda (Western Australia)	Revocation	Not to revoke coverage (June 1999)	Not to revoke coverage (July 1999)
Southern Cross Pipelines (March 1999)	Goldfields gas transmission pipeline to Kalgoorlie power station (Western Australia)	Revocation	To revoke coverage (June 1999)	To revoke coverage (July 1999)
SAGASCO South East (May 1999)	Tubridgi pipeline (Western Australia)	Revocation	Not to revoke coverage (July 1999)	Not to revoke coverage (August 1999)
Boral Energy Resources (May 1999)	Beharra Springs pipeline (Western Australia)	Revocation	To revoke coverage (July 1999)	To revoke coverage (August 1999)
Robe River Mining Company (June 1999)	Karratha-Cape Lambert pipeline (Western Australia)	Revocation	To revoke coverage (Sept 1999)	To revoke coverage (Sept 1999)
Epic Energy SA (December 1999)	South east pipeline system (South Australia)	Revocation	To revoke coverage (March 2000)	To revoke coverage (April 2000)
AGL Energy Sales and Marketing (January 2000)	Eastern gas pipeline (Longford-Sydney)	Coverage	To cover (June 2000)	To cover (October 2000) AGL Energy Sales and Marketing applied to the Australian Competition Tribunal for a review of the Minister's decision. On 4 May 2001, the tribunal handed down its decision not to cover the pipeline.

(continued)

Table B1.3 continued

<i>Applicant</i>	<i>Pipeline</i>	<i>Decision sought</i>	<i>Council recommendation</i>	<i>Minister's decision/outcome</i>
Eastern Australian Pipeline Limited (now Australian Pipeline Trust) (April 2000)	Moomba–Sydney pipeline system (Moomba–Wilton trunk line)	Revocation	Not to revoke coverage (September 2000)	Not to revoke coverage (October 2000)
Eastern Australian Pipeline Limited (now Australian Pipeline Trust) (April 2000)	Young–Culcairn lateral (New South Wales)	Revocation	Not to revoke coverage (September 2000)	Not to revoke coverage (October 2000)
Eastern Australian Pipeline Limited (now Australian Pipeline Trust) (April 2000)	Dalton–Canberra lateral (New South Wales and the ACT)	Revocation	Not to revoke coverage (September 2000)	Not to revoke coverage (October 2000)
Envestra (April 2000)	Palm Valley–Alice Springs pipeline (Northern Territory)	Revocation	To revoke coverage (July 2000)	To revoke coverage (July 2000)
Envestra (April 2000)	Alice Springs distribution system (Northern Territory)	Revocation	To revoke coverage (July 2000)	To revoke coverage (July 2000)
Dalby Town Council (August 2000)	Dalby distribution network (Queensland)	Revocation	To revoke coverage (October 2000)	To revoke coverage (November 2000)
Peabody Moura Mining Pty Ltd (August 2000)	Peabody–Mitsui gas pipeline (Queensland)	Revocation	To revoke coverage (October 2000)	To revoke coverage (November 2000)
Oil Company of Australia (August 2000)	Kincora–Wallumbilla pipeline (Queensland)	Revocation	To revoke coverage (October 2000)	To revoke coverage (November 2000)
Oil Company of Australia (August 2000)	Dawson Valley pipeline (Queensland)	Revocation	To revoke coverage (October 2000)	To revoke coverage (November 2000)
Envestra Ltd (May 2001)	Mildura pipeline (South Australia and Victoria)	Revocation	To revoke coverage (August 2001)	To revoke coverage (September 2001)
Envestra Ltd (May 2001)	Riverland pipeline (South Australia)	Revocation	To revoke coverage (August 2001)	To revoke coverage (September 2001)

(continued)

Table B1.3 continued

<i>Applicant</i>	<i>Pipeline</i>	<i>Decision sought</i>	<i>Council recommendation</i>	<i>Minister's decision/outcome</i>
Eastern Australian Pipeline Limited (now Australian Pipeline Trust) (June 2001)	Moomba–Sydney pipeline system (Moomba–Wilton trunk line)	Revocation	Not to revoke coverage (November 2002)	Being considered
Eastern Australian Pipeline Limited (now Australian Pipeline Trust) (June 2001)	Dalton–Canberra lateral (New South Wales and the ACT)	Revocation	Not to revoke coverage (November 2002)	Being considered
CMS Gas Transmission Australia (October 2001)	Parmelia pipeline (Western Australia)	Revocation	To revoke coverage (February 2002)	To revoke coverage (March 2002)
Roma Town Council (February 2002)	Roma distribution system (Queensland)	Revocation	To revoke coverage (April 2002)	To revoke coverage (May 2002)
Envestra Ltd (September 2002)	Mildura distribution system (Victoria)	Revocation	To revoke coverage (December 2002)	To revoke coverage (December 2002)
NT Gas Distribution Pty Ltd (January 2003)	City Gate–Berrimah pipeline (Northern Territory)	Revocation	To revoke coverage (April 2003)	To revoke coverage (May 2003)
Goldfields Gas Transmission Pty Ltd (March 2003)	Goldfields gas pipeline (Western Australia)	Revocation	Being considered	

B2 Assessing governments' progress with implementing the NCP (output 1)

The 1995 National Competition Policy (NCP) agreements set out reform obligations for governments and provide for the Australian Government to make payments to States and Territories that satisfactorily address those obligations. The National Competition Council assesses governments' implementation progress and makes recommendations to the Commonwealth Treasurer on whether this progress is sufficient for States and Territories to receive NCP payments.

The NCP agreements provided for three progress assessments (before July 1997, July 1999 and July 2001). In November 2000, the Council of Australian Governments (CoAG) decided that the Council should, following the 2001 assessment, make annual assessments of governments' compliance with the NCP and related reform obligations. The NCP and the Council's role in assessing the implementation of reform are scheduled to be reviewed by 2005.

The 2003 NCP assessment revealed that much has been accomplished via the NCP and related reform program. Many sectors of the economy — including water management, the energy sector, government utilities, agricultural marketing, the professions and occupations, finance, retail trading and licensing — have undergone extensive pro-competitive change. The water reform program, by ensuring governments allocate water across all uses (including stressed rivers and wetlands), is also producing significant environmental benefits.

Energy

Electricity

The cornerstone of reforms under the electricity agreements was a commitment to establish a fully competitive national electricity market. CoAG communiqués set out specific reform commitments intended to achieve this original vision. The reform commitments included:

- implementing necessary structural changes to allow for the operation of a competitive national electricity market;
- allowing customers to choose the supplier (including generators, retailers and traders) with which they will trade;
- establishing an interstate transmission network and nondiscriminatory access to the interconnected transmission and distribution network;
- ensuring there are no discriminatory legislative or regulatory barriers to entry for new participants in generation or retail supply, and to interstate and/or intrastate trade;
- implementing cost-reflective pricing for transmission services with greater scope for averaging for distribution network services, and ensuring the transparency and interjurisdictional consistency of network pricing and access charges; and
- facilitating interjurisdictional merit-order dispatch of generation and the interstate sourcing of generation where cost-effective.

Already important reforms have been implemented that establish the foundation of the national electricity market. The National Electricity Law was enacted to give effect to the National Electricity Code in each jurisdiction participating in the national electricity market. The National Electricity Market Management Company and the National Electricity Code Administrator were established as the market operator and the code administrator respectively. The national electricity market commenced operation in December 1998. An interconnected electricity grid incorporates New South Wales, Victoria, Queensland, South Australia and the ACT. Tasmania expects to join the national market in May 2005, on completion of the Basslink interconnect with Victoria. A third party access regime has been implemented for the transmission and distribution networks.

The reform program is not complete, with the original CoAG vision of a fully competitive national electricity market yet to be realised. Both the National Energy Markets Review (2002) (known as the Parer Review) and a CoAG communiqué (CoAG 2001) identified significant deficiencies in the operation of the national electricity market. As recognised in the Parer Review, failure to address these market deficiencies will not only result in the electricity sector falling short of its full potential, but may also undermine the benefits achieved over the past decade.

The Council considers that many of the market deficiencies identified by the Parer Review relate to existing reform commitments. A coordinated approach by governments is required to most effectively address these market deficiencies. Governments need some time to formulate and coordinate a future reform program. For this reason, the Council's 2003 NCP assessment did not focus on jurisdictions' response to addressing market deficiencies identified in the Parer Review. Rather, the Council will consider coordinated government reform initiatives through CoAG and the Ministerial Council on

Energy in the context of its 2004 NCP assessment. A number of commitments clearly pre-date the Parer Review, although often Parer also raised these issues. The Council's 2003 NCP assessment focused on the outstanding reform commitments highlighted in the 2002 NCP assessment:

- full retail contestability in Queensland, South Australia and the ACT;
- the Electricity Tariff Equalisation Fund in New South Wales and the Benchmark Pricing Agreement in Queensland;
- inconsistent interconnect approval arrangements within the national electricity market; and
- derogations to the National Electricity Code.

The broader NCP commitments also apply to the electricity sector, so the Council's 2003 assessment considered:

- structural reform in Western Australia; and
- legislation review and reform activity.

One of the CoAG's main objectives for the fully competitive national market in electricity is the ability of customers to choose their suppliers (including generators, retailers and traders). The benefits of full retail contestability include the potential for lower energy prices, enhanced consumer choice, improved product and service offerings, and greater efficiency in electricity investment infrastructure through more accurate investment price signals. The Parer Review noted such benefits, recommending the introduction of full retail contestability into all markets.

All jurisdictions except Queensland introduced full retail contestability in electricity before the 2003 NCP assessment.

Gas

The main aim of the CoAG gas agreements is to create a national gas market characterised by more competitive supply arrangements. This aim recognises that a well-developed and competitive gas industry is vital to Australia's economic and environmental future. The core elements of the NCP commitments are (1) the removal of all legislative and regulatory barriers to the free trade of gas within and across State and Territory boundaries, and (2) the provision of third party access to gas pipelines. Other objectives are to introduce uniform national pipeline construction standards; increase the commercialisation of the operations of publicly owned gas utilities; remove restrictions on the uses of natural gas (for example, for electricity generation); and ensure gas franchise arrangements are consistent with free and fair competition in gas markets and third party access.

The Council considers that CoAG's objectives for national free and fair trade in gas are now largely in place. Progress in undertaking NCP gas reform has been slower than CoAG envisaged in its early agreements, largely because the original timetable was ambitious, with many complex issues to be resolved. The Council considers that the NCP assessments — which have provided independent monitoring of governments' implementation of their gas reform commitments — have provided a strong incentive to jurisdictions to meet their agreed reform obligations.

Two areas of reform were judged in previous NCP assessments to have been fully implemented: (1) the structural reform of gas utilities and (2) adherence to franchising and licensing principles. Structural reform requires jurisdictions to corporatise and vertically separate publicly owned transmission and distribution pipeline entities, and to ring-fence privately owned transmission and distribution activities.

Regarding franchising and licensing, jurisdictions have obligations under the 1997 gas agreement to adhere to franchising and licensing principles. The franchising principles require jurisdictions to allow bypass and interconnection of pipelines and to not grant new exclusive franchises except in exceptional circumstances. The licensing principles require licences to be unbundled from other types of licence, to not be used to restrict the construction or operation of competing pipelines, to not limit the services that an operator may provide, and to allow bypass and interconnection to contestable customers.

The Council considered several significant outstanding issues in its 2003 NCP assessment.

- *The enactment and certification of the national gas access regime.* All jurisdictions have enacted legislation to apply the National Gas Access Code. All governments except Tasmania and Queensland have had their access regimes certified as effective. The Council expects Tasmania to apply for certification in the near future. The Council reviewed Queensland's access regime and recommended that it did not meet the requirements for effectiveness (part B1).
- *Implementation of full retail contestability.* New South Wales, Victoria and the ACT have introduced full retail contestability. In South Australia and Western Australia, gas customers are legally contestable; full retail contestability has been delayed in practice but is likely to be in operation in 2004. Queensland has released a cost-benefit analysis of full retail contestability for public consultation. Subject to the results of that consultation, Queensland will seek the agreement of other jurisdictions not to introduce full retail contestability, with this decision to be subject to review in 2007.
- *Progress in review and reform of gas legislation.* Review and reform of gas legislation was completed in most areas, although some reviews have not been finalised and some necessary reforms have not been implemented.

The most significant issue for 2003 was the review and reform of offshore and onshore petroleum acreage management legislation.

- *Implementation of the national gas quality standard.* All jurisdictions except Western Australia and Tasmania have stated their intention to implement the national gas quality standard.

Water

The water reform commitments originated in 1994, when CoAG agreed to a strategic framework for reforming the Australian water industry. Governments have since amended and enhanced the 1994 framework, but its basic objective — to produce an economically viable and ecologically sustainable water industry — remains the same. The framework shares the economic efficiency objectives of the NCP, through its provisions for water pricing, investment in new schemes, trading in water entitlements and institutional reform. It is unique, however, in also having explicit environmental objectives and obligations.

All governments are making progress in implementing the water reforms, although at different rates and in different ways. These variances reflect the complexity of the reforms, the diversity of administrative and legislative environments across jurisdictions, differences in the health of river systems, and the different interests of stakeholder groups. The initial timetable was perhaps optimistic, underestimating the extent of the reform task and the difficulties in implementing some elements of the program. CoAG extended the implementation timetable until 2005. By 2001 governments were to have allocated water to the environment for stressed and overallocated rivers.

Given the broad scope of the reform program, CoAG senior officials scheduled different elements for consideration in each annual NCP assessment. The Council's 2003 NCP assessment considered governments' progress with implementing urban water and wastewater pricing reforms, intrastate water trading arrangements, institutional reform matters and the National Water Quality Management Strategy. It also considered two outstanding matters from previous assessments: (1) progress by jurisdictions in making water available for environmental purposes in river systems that are overallocated or stressed; and (2) New South Wales' implementation of its new access licence system and registry. Also, in accord with the Competition Principles Agreement (CPA), the 2003 NCP assessment considered governments' programs of review and reform of the stock of water industry legislation that restricts competition. Finally, it considered two matters that are standing items in every assessment: (1) the economic and ecological justification for new investment in rural water infrastructure (where there are relevant projects); and (2) public education and consultation activity.

The 2004 NCP water assessment will consider rural water pricing and cost recovery, water trading arrangements and the implementation of water

entitlements systems, including allocations to the environment. The assessment in 2005 will consider governments' implementation of the entire program.

Pricing urban water

Proper pricing is achieved through consumption-based pricing (where cost-effective), full cost recovery, the removal of cross-subsidies (or making them transparent) and the disclosure of water services supplied at less than full cost (ideally involving the payment of suppliers for community service obligations). Price reform in most cities and major nonmetropolitan urban areas is virtually complete. Most Australians in large urban areas now face water prices that reflect the amount of water that they use and that reward conservation. Most larger urban water suppliers fully recover costs and are achieving (or seeking to achieve) positive rates of return. Reform by the smaller, local government-owned water businesses is slower.

To address outstanding issues, New South Wales and Tasmania implemented strategies to improve the approach to pricing by local governments responsible for managing nonmetropolitan urban water services. Victoria, South Australia and Western Australia announced their intention to address the transparency and efficacy of their arrangements for setting urban water and wastewater prices. Queensland's Business Management Assistance Program takes a mentoring approach to helping smaller local governments comply with pricing requirements.

Allocations of water for the environment

The water reform framework aims to produce better environmental outcomes. Given the severity of the problems, however, gains from the reforms will take longer to achieve, be expensive initially and be more challenging than the other elements of the reform framework. The knowledge base is still limited, so the nature and extent of the environmental improvements are less predictable than are other outcomes from reform.

Against this background, one of the most complex and contentious features of the water reform framework is the obligation to legally recognise the environment as a legitimate user of water and to make allocations that are determined, wherever possible, on the basis of the best available scientific research. A key issue is the trade-offs made when the amount of water identified for environmental flows is less than the best available science would recommend. The CoAG water reform framework acknowledges the existing rights of water users, meaning that water management committees developing environmental flow regimes may recommend a flow regime that does not meet the scientifically recommended regime, at least initially. Because such decisions imply that the community has agreed to accept the potential consequences, the Council considers that there must be sufficient

public information on the environmental risks posed by the negotiated flow regimes to allow the community to understand and comment on water use decisions (including decisions on environmental flows). Moreover, decision makers need to be representative of all interests, and the adopted flow regime and associated river health activities should deliver recommended environmental flow objectives within a reasonable period. In considering governments' progress on environmental allocations, the Council recognised the foreshadowed CoAG work on new national arrangements for the water industry. The foreshadowed work may alter the approach to some areas of the existing reform framework, such as water allocations and entitlements, environmental allocations and water trading.

In 2003, several initiatives demonstrated rigour in developing and providing environmental information. The Queensland Government, for example, conducted an independent scientific assessment of the current and future condition of the Lower Balonne River. The review recommended arrangements for wetting national parks and wetlands within the system and proposed further research to refine environmental flow requirements. The Queensland Government committed to implement in full the recommendations of the review via a new water resource plan for the Condamine–Balonne Basin. The Government anticipates that the water resource plan and the resource operations plan (which will implement the water resource plan) will be finalised by mid-2004. The Victorian Government established a technical audit panel to consider whether the information and method used in developing environmental flows are the best available at the time, and whether the assessment of risks is properly done. The audit panel's reviews are to be made public.

Water entitlements

Governments made progress in legislating water allocations for water users. They are committed to separating water title from land title and to specifying title (including using a registry system). In 2003, New South Wales was the only jurisdiction to have outstanding legislative and administrative issues relating to the development of its water rights system. New South Wales was working on converting existing five-year licences to 15-year access licences and implementing its system of registering water rights. Following the foreshadowing of CoAG work on a new intergovernmental agreement on water, the New South Wales Government deferred the commencement date for its new licence system and registry to 1 January 2004.

Institutional reform

Institutional reform involves establishing institutional structures that facilitate good business practice, protect the environment and avoid conflicts of interest. The obligations cover:

- the separation of the roles of service provision from regulation, water resource and environmental management, and standards setting;
- the adoption of a commercial focus by metropolitan service providers, and the benchmarking of all providers;
- the devolution of more responsibility to irrigators in managing irrigation areas; and
- the adoption of an integrated approach to natural resource management.

The adoption of an integrated approach to natural resource management was a significant issue in 2003. All jurisdictions are establishing appropriate institutional arrangements that encourage sustainable ongoing use of land and water resources. The focus has been on the administrative framework, however, and more work is needed to implement appropriate resource management activities.

The Council also raised issues on institutional arrangements for price regulation in some jurisdictions. As noted in the discussion on urban pricing, Victoria, Western Australia and South Australia announced processes that will improve transparency in price regulation.

Water quality

Governments agreed to implement the National Water Quality Management Strategy by adopting market-based and regulatory measures dealing with water quality monitoring, catchment management policies, and town wastewater and sewage disposal. All States and Territories are implementing initiatives under this strategy.

Trading in water rights

The reform framework provides for trading in water rights, including cross-border trading where it is socially, physically and ecologically sustainable. In the 2003 NCP assessment, the Council considered governments' progress in implementing arrangements to facilitate intrastate water trading. While the amount of trade nationwide is increasing, there are still significant constraints on trade. Water trading will be limited until governments have implemented their water planning arrangements. These plans are necessary to establish the amount of water available for extractive uses and to set

regional trading rules. In addition, there are constraints on trade out of irrigation districts in New South Wales and South Australia, potentially significant constraints in Western Australia, and lesser constraints in Victoria. Further, some jurisdictions still require the holder of a water right to own land.

Review and reform of water legislation

All States and Territories have completed their programs of review of existing water industry legislation. Most governments repealed existing legislation and replaced it with new water Acts, although Western Australia is yet to implement all recommended reforms. The Council will consider remaining constraints on water trading in future NCP assessments.

Investment in new rural water schemes

Governments must show that new rural water schemes and extensions to existing schemes are economically viable and ecologically sustainable before investment in the schemes proceeds. In the 2003 NCP assessment, the Council considered new infrastructure projects in Queensland, South Australia and Tasmania.

Public consultation and education

The water reforms provide for government agencies and service deliverers to consult on proposals for change and other initiatives, and to conduct public education programs (including programs in schools). These processes result in better informed communities, customers and other key stakeholders, and consequently improve decisions on water use. Community-based groups, such as regional water management committees and customer consultative councils, are now more influential in water matters. Initiatives by governments and water suppliers to encourage conservation in water use are having positive impacts.

Approaches to consultation appear to be improving and governments are addressing deficiencies identified in the past. New South Wales, for example, advised it would monitor future processes for developing water sharing plans to ensure earlier problems do not recur. It noted that the gazettal of the State Water Management Outcomes Plan and the experience gained from developing the first round of water sharing plans would help to inform future planning. New South Wales also released fact sheets and other information on the effects of its first round of water sharing plans.

Road transport

The NCP road transport reform program is a package of 31 initiatives covering six areas (registration charges for heavy vehicles; transport of dangerous goods; vehicle operations; heavy vehicle registration; driver licensing; and compliance and enforcement). Governments endorsed 25 of the 31 reforms for implementation under the NCP. These include changes aimed at producing national uniformity in vehicle registration and driver licensing arrangements. Higher mass limits reform is a notable exclusion from reforms endorsed by CoAG for assessment under the NCP.

Governments did not endorse a road transport reform framework for the 2002 or 2003 NCP assessments. In the 2003 NCP assessment, the Council considered jurisdictions progress in undertaking reforms that were not implemented or operational at the time of the 2002 NCP assessment. New South Wales, Victoria, Queensland, South Australia, Tasmania and the Northern Territory had completed all NCP road transport reform obligations at 30 June 2003.

At that date, the Australian, Western Australia and the ACT governments were close to completing their outstanding reforms.

Legislation review and reform

Governments' actions in reviewing and reforming legislation that restricts competition were a significant focus for the Council's 2003 NCP assessment, reflecting the CoAG decision that governments should complete review and appropriate reform activity by 30 June 2002. As noted in part A, the coincidence of the deadline for review and reform completion and the 2002 NCP assessment meant that it was not practical for the Council to report on all activity to 30 June 2002. Further, given the significant resource demand that the review and reform program places on governments, the Council accepted that there is a case for governments prioritising their review and reform activity to reduce delays in considering legislation that contains more significant competition restrictions. In 2002, the Council stressed that governments should ensure all review and reform activity was complete and consistent with the NCP obligations by June 2003, or it would be likely to recommend a reduction in NCP payments where there was significant noncompliance. This approach provided a year's grace. Unlike in previous years, in 2003 the Council did not accept that a government commitment to future action was sufficient to meet the legislation review obligations.

Governments' 1996 review programs scheduled around 1800 pieces of legislation for review. This legislation was divided into priority and nonpriority areas. Priority areas were those restrictions likely to have the greatest impact on competition (box B2.1)

Box B2.1: Priority legislation areas

Water

Legislation relating to water management, supply, irrigation, trading and water corporations (see section on water reform)

Primary industries

Barley/coarse grains, dairy, poultry meat, rice, sugar, wheat, fishing, forestry, mining, food regulation, agricultural and veterinary chemicals, quarantine, bulk handling

Communications

Australian Postal Corporation Act 1989: third party access regime, *Broadcasting Services Act 1992* and related legislation, *Radiocommunications Act 1992*

Fair trading legislation and consumer legislation

Fair trading legislation, consumer credit legislation, trade measurement legislation

Insurance and superannuation

Workers compensation insurance, compulsory third party motor vehicle insurance, professional indemnity insurance, public sector superannuation scheme choice

Professions and occupations

Chiropractors, dentists and dental paraprofessionals, *Health Insurance Act 1973* (Cwlth), medical practitioners, Medicare provider numbers for medical practitioners, nurses, occupational therapists, optometrists/opticians/optical paraprofessionals, osteopaths, pathology collection centre licensing, pharmacists, physiotherapists, podiatrists, psychologists, radiographers, speech pathologists, traditional Chinese medicine

Legal services, conveyancers, real estate agents, security providers, motor vehicle dealers, travel agents, employment agents

Planning construction and development

Planning and approvals, building regulations and approvals, related professions and occupations (such as architects)

Retail regulation

Shop trading hours, liquor licensing, petroleum retailing

Social regulation

Education services, gambling, child care services

Transport services

Road freight transport (tow trucks, dangerous goods), rail services, taxis and hire cars, ports and sea freight, international liner cargo shipping (part X of the TPA), air transport

There were over 800 pieces of priority legislation scheduled for review. At the time of finalising the Council's 2003 NCP assessment, the review and reform process had been satisfactorily completed for 56 per cent of this legislation — that is, the reviews had been completed, legislation had been passed to implement reforms consistent with the NCP guiding principle, and any phasing of reform implementation was in the public interest. For nonpriority

legislation, review and reform had been completed for 81 per cent. Overall, 69 per cent of the legislation timetabled for review met NCP obligations.

The Council's 2003 NCP assessment recognised that most governments have made considerable progress, although none had fully implemented its review and reform obligations at 30 June 2003. For much of the legislation that is outstanding, reforms are before parliament or the reform legislation is being drafted. In these cases, the reforms are likely to be complete in a relatively short period.

In 2004, the Council will reconsider governments' progress in dealing with outstanding legislation review issues. For that assessment, each jurisdiction will need to demonstrate that it has made significant progress against its outstanding reforms.

Primary industry

Governments have had a long history of involvement in the production and marketing of agricultural products, particularly via Commonwealth Government underwriting of export receipts and domestic price setting. Some arrangements were phased out in the 1970s and 1980s following evidence that they contribute to production inefficiencies and impose significant costs on taxpayers and domestic consumers. Nonetheless, when governments began to review their legislation under the NCP program, there were statutory marketing authorities ('single desks') for many agricultural products, including wheat, coarse grains and oilseeds, dairy, horticulture, rice, potatoes, eggs, poultry meat and sugar. There were also direct controls on price or production, with quotas on drinking milk in New South Wales, Queensland and Western Australia, and, in Queensland, grower representatives bargained with the local cane mill operator to determine the price received by sugarcane growers and the land area available to grow sugarcane.

The relevant NCP feature of most single desks is the monopoly (a domestic sales monopoly and/or an export sales monopoly) they hold on selling an agricultural product grown within their jurisdiction. A single desk with a domestic sales monopoly usually has rights to acquire produce from farmers to prevent them from selling their produce interstate. It generally pays farmers the average price that it receives, less its marketing and transport costs. It also usually determines such matters as crop varieties planted and quality grades. Single desks thus require individual farmers to give up a considerable degree of choice in how they operate their business, what they produce and how they market their production.

Single desk arrangements have undergone much change under the NCP: all governments repealed price and supply controls on drinking milk; Queensland ended its export marketing monopoly for wheat and barley; Victoria deregulated its barley marketing arrangements and a recent NCP review of similar arrangements in South Australia recommended deregulation; Western Australia is progressing reforms to liberalise its grain

marketing; Queensland and Tasmania removed supply and marketing restrictions on eggs; Western Australia and South Australia removed entry and pricing restrictions in bulk handling; Queensland expedited reform of the sugar industry; and several jurisdictions replaced centralised price fixing for poultry growing services. In contrast, the Australian Government's decision to not remove its wheat marketing restrictions, as recommended by its NCP review, discouraged the implementation of some State reforms that are in the public interest.

Governments are using the NCP program to evaluate the merits of legislative restrictions on agriculture-related matters such as agricultural and veterinary chemicals, bulk handling and storage, food standards, quarantine arrangements and veterinary services, including implementing a national approach in areas such as food standards regulation. They are also using the NCP program to consider how to improve the efficiency of mining, fishing and forestry activities, and how best to achieve the sustainable development of the forestry and fishing resource.

While the review and reform of legislation that restricts competition is the major NCP obligation relevant to primary industries, governments face other obligations for some primary industries. Governments' operation of forestry businesses means that the application of competitive neutrality principles is important in that sector. The structural reform obligation is relevant where governments privatise former publicly owned bodies.

Communications infrastructure

The Australian Government is responsible for legislation governing this large and rapidly changing sector of the economy, which includes telecommunications, broadcasting, radiocommunications and postal services. The Australian Government commissioned reviews by the Productivity Commission in the first three areas, and by the Council in the last area. Some of the reform issues are complex, and reform progress has been limited to date.

- The Australian Government released the Productivity Commission's report on telecommunications regulation in December 2001 and announced its initial response to the report in April 2002. It announced that it intends to retain the telecommunications-specific regulatory regime, remove the capacity of Telstra to appeal to the Australian Competition Tribunal on the Australian Competition and Consumer Commission's access arbitration decisions (because it considers that this approach will encourage new entrants to the industry) and implement an accounting separation of Telstra's wholesale and retail operations to increase transparency.
- The Productivity Commission's broadcasting report was released in April 2000. The Australian Government will consider the management of broadcasting and telecommunications spectrum in the review of the

Australian Broadcasting Authority and the Australian Communications Authority, which it announced in August 2002. The Government has not undertaken any further reform since then. A review of datacasting by the Department of Communications, Information Technology and the Arts was released on 10 December 2002. The Australian Government announced there would be no change to the rules on datacasters' broadcasting content.

- The *Radiocommunications Act 1992* is concerned with radiofrequency spectrum. The Australian Government accepted the Productivity Commission's recommendations on converting of licences, selling encumbered spectrum and re-assigning spectrum licences, and it will consider the recommendations on broadcasters' use of spectrum.
- The Australian Government introduced a Bill in the 2000 autumn session of Parliament to reduce Australia Post's mail monopoly to smaller items (from 250 grams and four times the standard letter rate to 50 grams and one times the standard letter rate), remove incoming international mail from the monopoly and allow third party access to Australia Post's network services. The Government withdrew the Bill in March 2001.

Fair trading and consumer legislation

States and Territories have enacted a range of legislation dealing with fair trading and consumer protection issues. This legislation regulates aspects of business conduct, including advertising, dealings with customers and the provision of information. It falls into three broad categories: (1) general fair trading legislation, which includes governments' fair trading Acts; (2) legislation regulating the provision of consumer credit, including the Consumer Credit Code; and (3) trade measurement legislation, which deals with the measurement of goods for sale. Attempts have been made to achieve national uniformity in each of these areas, but variations across jurisdictions remain.

Most governments have satisfactorily reviewed and reformed fair trading and consumer legislation. Reform has been delayed in a few areas, with a major delay in the reform of legislation that regulates the measurement of goods for sale. The national review of this latter area of regulation was expected to be finalised in August 2003.

Compulsory insurance

Governments have undertaken NCP reviews of their regulation of compulsory insurance in the areas of workers compensation, compulsory third party motor vehicle and legal professional indemnity insurance. The Council considers that the mandatory nature of this insurance and the licensing of

insurers are consistent with the NCP. The major restriction on competition arises from the statutory monopolies that underwrite this insurance.

For compulsory third party and workers compensation insurance, several governments license a monopoly to provide one form of insurance, and multiple private insurers to provide the other form of insurance. This arrangement occurs despite the two types of insurance being similar. It underlines the complexity of the NCP questions. The NCP reviews of compulsory insurance need to encompass an analysis of economies of scale, price signals, premium setting, the financial position of insurers, long tail liabilities, rehabilitation, run-off cover and outsourcing.

Jurisdictions have considered these and other issues in reviews of their remaining monopoly arrangements and in information provided to the Council. The Council cannot assess these monopoly arrangements because jurisdictions are continuing to amend their legislation relating to public liability and professional indemnity insurance, following the sharp rise in insurance premiums in recent years. The amendments relate particularly to limiting benefits and are the result of discussions and agreements by Australian Government, State and Territory Ministers. In addition, in April 2003, the Australian Government asked the Productivity Commission to report on possible national frameworks for the provision of workers compensation insurance. Due on 13 March 2004, this report is likely to have implications for workers compensation insurance, which presents issues similar to those affecting compulsory third party and legal professional indemnity insurance. Thus, the Council did not complete its assessment in 2003, although it has assessed the six instances of multiple provision of compulsory third party or workers compensation insurance as complying with NCP obligations.

Professions and occupations

Governments have reviewed the regulation of some 50 professions and occupations, including health professionals and para-professionals, legal practitioners, pharmacists, and various agents and dealers. The review and reform of laws regulating professions and occupations is a significant element of the NCP legislation review and reform program. Review and reform activity by individual governments in many of these areas is complete and complies with NCP principles. However, reform outcomes are still to be implemented in important areas, including health practitioners (particularly pharmacists) and legal practitioners. Initiatives undertaken in 2002-03 included the following.

- New South Wales implemented reforms so the regulation of drugs, poisons and controlled substances is consistent with the recommendations of the national review. It removed restrictions on advertising and abolished licensing of employment agents, and provided for consumer protection through specific provisions in the *Fair Trading Act 1987*.

- Victoria removed restrictions on the entry of real estate agents by modifying the experience and educational requirements.
- Queensland introduced the Health Legislation Amendment Bill 2003 to implement core practice reforms for chiropractors, osteopaths, physiotherapists, optometrists and podiatrists.
- The ACT liberalised its hawkers legislation.
- The Northern Territory amended its legal practice legislation to allow multidisciplinary practices.

Planning, construction and development

Planning, planning approvals, and building and construction regulations and approvals can have a significant impact on building costs. Occupational licensing of building service providers has benefits, but may also increase building costs. Legislation in all of these areas can be anticompetitive. All State and Territory governments completed reviews of their planning legislation. Victoria, Queensland, South Australia, Tasmania, the ACT and the Northern Territory implemented reforms to streamline planning processes, allow for greater community involvement and minimise opportunities for existing businesses to inappropriately prevent or delay participation by new competitors.

State and Territory governments are well advanced in reviewing and reforming legislation relating to a wide range of building occupations, including architects, surveyors, valuers, builders, electricians and plumbers. During 2002-03, New South Wales removed restrictions on the naming and ownership of surveying companies, Tasmania maintained the registration of land surveyors but removed other restrictions on competition, and the Northern Territory removed unnecessary restrictions on the licensing of electricians and plumbers. All States and Territories reviewed and reformed legislation applying to land valuers, and at 30 June 2003 only Western Australia and South Australia had a few outstanding issues to address.

Retail regulation

Under the NCP, governments have considered restrictions on the ability of retail businesses to enter new markets and on when and how retailers can trade. The two key restrictions on competition are controls on shop trading hours and controls on the sale of liquor.

Prescribed shop trading hours prevent sellers from trading at the times they consider appropriate. Trading hours arrangements also discriminate among sellers on the basis of location, size or product sold. Most governments have deregulated trading hours arrangements, either by removing restrictions

from relevant legislation or by providing broad exemptions from existing legislative restrictions. In 2003, South Australia extended shop trading hours to allow for Sunday trading and late night trading on week days. Western Australia is the only jurisdiction that retains significant restrictions on shop trading hours.

Liquor licensing laws frequently preclude entry by responsible sellers and favour some sellers at the expense of others. In some jurisdictions, new entry is frustrated because incumbents are able to claim that they already provide an adequate service to the local area. Tasmania reformed liquor licensing in 2003 by removing the rule that prevented non-hotel sellers of packaged liquor from selling liquor (except for Tasmanian wine) in quantities of less than 9 litres in any one sale.

Social regulation

There are frequently economic aspects to governments' management of social policies and the provision of related services. While decisions about appropriate policy objectives are matters for elected governments in consultation with their constituents, legislation to achieve those objectives often restricts who can offer particular services, imposes pricing obligations or sets other conditions that affect the competitive environment. The way in which governments seek to achieve particular social objectives therefore falls within the scope of the NCP. Legislation review and reform obligations are relevant for the education, child care and gambling sectors.

State and Territory education legislation requires registration of nongovernment education/training providers and accreditation of their courses. Nongovernment providers must meet requirements specifying the nature and content of the instruction offered, ensure students receive education of a satisfactory standard and provide protection for the safety, health and welfare of students. Training providers may also be required to demonstrate their financial viability. At 30 June 2003, most State and Territory governments had completed reviews of their education legislation and generally found these legislative restrictions on competition to be in the public interest. Competitive neutrality questions are also growing in significance as public educational institutions increasingly seek to supplement government funding through commercial activity.

Child care legislation usually requires licensing of child care businesses and establishes health and safety and staff/child ratio requirements. Review and reform activity has sought to remove unnecessary prescription from legislation while ensuring appropriate standards of child care are in place. Competitive neutrality questions have sometimes arisen when government child care businesses compete with private providers. At 30 June 2003, the Australian, Victoria, South Australia, Tasmania and the ACT governments had completed their consideration of legislation regulating child care.

Gambling legislation restricts competition through exclusivity arrangements, licensing provisions, rules of conduct and rules governing activities. Many of these restrictions are aimed at ensuring probity and integrity of the gaming products and providers, and minimising harm from gambling. While many of these measures comply with competition obligations, some address probity, harm minimisation and consumer protection objectives only indirectly: they appear to be focused more on the protection of taxation revenue from gambling, regional development and industry protection. Competition obligations mean that governments need to show these restrictions are in the public interest. The Productivity Commission's inquiry into social and economic issues related to gambling regulation is informing policy considerations by governments. CoAG decided in 2000 to develop a national framework to minimise gambling problems. At 30 June 2003, governments had completed a significant proportion of their scheduled reviews of gambling legislation and Victoria had met all its review and reform obligations.

Transport (including taxis and hire cars)

Review and reform of transport regulation forms a significant proportion of governments' NCP review and reform activity. The regulation of road transport, rail (mainly rail safety), sea transport (and port regulation) and air transport and related services has been tackled under the NCP.

All governments are reviewing taxi and hire car licensing. It is widely accepted that governments have a role in prescribing safety and quality standards. Accordingly, drivers need to meet minimum standards and vehicles must be roadworthy. Some governments also subsidise taxi journeys for people with a disability, to ensure these consumers have reasonable access to affordable services. Generally, these types of intervention do not have significant impacts on competition.

Conversely, restrictions on the supply of taxi licences, regulated fares and limits on the capacity of hire cars to compete with taxis — such as a prohibition on hire cars' ability to respond to street hails — constitute restrictions on competition. Under the CPA, these areas of regulation should be subject to a public interest test. The taxi and hire car industry is almost unique among consumer service industries in having absolute restrictions on entry.

At 30 June 2003, all jurisdictions had completed NCP reviews of their taxi and hire car legislation. The Victorian, Western Australian, ACT and Northern Territory reviews recommended removing restrictions on taxi licence numbers and compensating incumbents through licence buybacks. The New South Wales and Tasmanian reviews recommended transitional approaches involving annual increases in licence numbers. Despite the evidence from NCP reviews that taxi supply restrictions are not in the public interest, governments have found it difficult to make major progress in this area.

While some governments have started to consider reform initiatives, others have found the task too daunting. Apart from a reform program in Victoria involving a twelve-year program of staged releases of taxi licences, progress has been slow.

Reform of government businesses

Governments continue to reform their business activities in accordance with the NCP through the structural reform and prices oversight of public monopolies. Significant publicly owned businesses in all jurisdictions apply competitive neutrality principles, and each government has a mechanism for investigating complaints that their businesses are not applying these principles appropriately.

The coverage of governments' competitive neutrality policies is generally satisfactory, although some States have a few remaining issues, and most governments continue to address business structure issues. The Australian, State and Territory government complaints mechanisms are operating satisfactorily but could be improved in two areas. First, some jurisdictions provide for Ministers to decide whether an independent body should hear complaints, and this arrangement can bring into question the independence of the complaints process. Second, complaints processes have been inordinately slow in some cases. While these concerns do not indicate widespread systemic failures, the Council encourages governments to consider options for accelerating investigation processes and any subsequent actions.

B3 Communications (output 2)

The Council dedicated considerable resources to its communications program during 2002-03, with a key focus on consultation initiatives and the availability of information on the National Competition Policy (NCP) and the Council's work within the NCP framework. Three main activity categories contribute to the Council's communication output: consultation and speeches; website development and an electronic newsletter; and publications.

Consultation and speeches

The secretariat and members of the Council met with representatives of the Australian, State, Territory and local governments, community interest groups and the private sector during the year to discuss many competition policy matters. In addition, the Council released an assessment framework and sought submissions on government progress in implementing water reform. The 16 submissions received are available on the Council's website. The Council also received submissions on applications for declaration under part IIIA of the *Trade Practices Act 1974* and applications under the national gas code. These submissions are in response to issues papers or draft recommendations released by the Council (box B3.1). The Council posts all nonconfidential submissions on its website soon after they are received, so interested parties can consider and comment on the views of others.

Box B3.1: Issues papers and draft recommendations released by the Council in 2002-03

Draft recommendations

Application by Virgin Blue for declaration of airside services at Sydney Airport: draft recommendation, June 2003

Application for revocation of coverage of the City Gate to Berrimah pipeline under the national gas access regime: draft recommendation, March 2003

Application for revocation of coverage of the Mildura distribution system under the national gas access regime: draft recommendation, November 2002

Issues papers

Goldfields gas pipeline — application to revoke coverage under the Western Australian gas access regime: issues paper, April 2003

City Gate to Berrimah pipeline — application to revoke coverage under the Northern Territory gas access regime: issues paper, February 2003

Application by Virgin Blue for declaration of airside services at Sydney Airport: issues paper, November 2002

Mildura distribution system — application to revoke coverage under the Victorian gas access regime: issues paper, October 2002

Councillors and Council staff made 18 speeches in 2002-03 (box B3.2). Speeches are given on a variety of topics relevant to the NCP and are designed to improve understanding of the reform agenda and facilitate the discussion of NCP issues.

Box B3.2: Speeches by Councillors and Council staff in 2002-03

Deborah Cope, Principal Economist, 'NCP water reform', Presented to the New South Wales Department of National Parks and Wildlife, September 2002, Sydney.

Deborah Cope, Principal Economist, 'Water reform: who pays for the environment?' Presented to the Australian Conference of Economists 2002, 10 September 2002, Adelaide.

Graeme Samuel, President, 'NCP: the final stage of the reform program' Presented to CEDA, 20 September 2002, Melbourne.

Graeme Samuel, President, 'Emerging transport issues: transport access regulation', Presented to the BTRE Transport Policy Colloquium, 3 October 2002, Canberra.

Samuel Drummond, Project Manager, 'National competition policy: The price of water', Presented to the Australian Water Association, Queensland branch, Annual Regional Conference, 7-8 November, Mooloolaba.

Wendy Craik, Councillor, 'Competition policy and regional economic growth', Presented to Sustainable Economic Growth for Regions National Conference, 'Lobbying for Regions: Strategies and Steps', 27 November 2002, Queanbeyan.

Ed Willett, Executive Director, 'Finance and policy issues in utility regulation', Presented to Independent Pricing and Regulator Tribunal, 3 December 2002, Sydney.

Graeme Samuel, President, 'National Competition Policy', Presented to Building Commission Luncheon, 4 December 2002, Sydney.

Graeme Samuel, President, 'The future of competition policy in Australia', Presented to State Chamber of Commerce, 20 February 2003, Sydney.

Graeme Samuel, President, 'NCC perspective on evolution and future of competition', Presented to Minter Ellison - National Competition and regulatory Group Retreat, 22 February 2003, Victoria.

Alan Johnston, Director, 'Taxi regulation in the context of National Competition Policy', Presented to WA Minister for Planning and Infrastructure, 26 February 2003, Perth.

Graeme Samuel, President, 'A changing Australia: the business and social imperatives - keeping reform on track', Presented to UNSW Australian Graduate School of Management alumni meeting, 26 February 2003, Canberra.

Graeme Samuel, President, 'Competition policy - balancing the interests of consumers and business', Presented to CEDA, 5 March 2003, Perth.

Deborah Cope, Acting Executive Director, 'Water - the way ahead', Presented to the Victorian Water Industry Association, 6 March 2003, Tararagon.

Graeme Samuel, President, 'Where Australia's competition agenda is heading and impacts and recommendations of the Dawson enquiry', Presented to International CEO Forum, 2 April 2003, Sydney.

(continued)

Box B3.2 continued

Graeme Samuel, President, 'Signposts to sustainability', Presented to Green Capital, 3 April 2003, Sydney.

Ross Campbell, Director, 'National Competition Policy - completing the reform program', Presentation to the Rural Leadership Forum, 7 April 2003, Sydney.

Graeme Samuel, President, 'Shop trading hours', Presented to South Australian Parliamentary Committee, 10 April 2003, Adelaide.

Graeme Samuel, President, 'Competition policy and economic development', Presented to Salvation Army Business Dinner, 30 April 2003, Launceston.

Graeme Samuel, President, 'Sustainability and competition policy', Presented to Environment Business Australia, 7 May 2003, Melbourne.

Graeme Samuel, President, 'Competition policy balancing the interests of consumers and business', Presented to the National Institute of Accountants, 15 - 17 May 2003, Hobart.

Graeme Samuel, President, 'Competition policy balancing the interests of consumers and business', Presented to the 2003 Competition Law Conference, 17 May 2003, Sydney.

Graeme Samuel, President, Presentation to the 13th Annual Australian Banking and Finance Awards, 20 May 2003, Sydney.

Graeme Samuel, President, 'Competition policy: balancing the interests of consumers and business', Presented to CEDA Western Australia, 21 May 2003, Perth.

Deborah Cope, Acting Executive Director, 'Building support for reform: a case study on Australia's National Competition Policy', Presented to the structural reform seminar: APEC Senior Officials Meeting II, 23 May 2003, Khon Kaen Thailand.

Deborah Cope, Acting Executive Director, 'The importance of structural reform: a case study on Australia's National Competition Policy', Presented to the structural reform seminar: APEC Senior Officials Meeting II, 23 May 2003, Khon Kaen Thailand.

Graeme Samuel, President, 'A changing Australia: the business and social imperative - keeping reform on track', Presented to Victorian Industry Education Partnership, 12 June 2003, Melbourne.

Wendy Craik, Councillor, 'Water - the way ahead', Presented to the 8th Annual National Water Conference, 24 June 2003, Sydney.

Website development and electronic newsletter

The Council is continuing to develop and improve its website (www.ncc.gov.au). The new site aims to enhance community understanding of the NCP by allowing greater access to information and accommodating the needs of a wider audience. The number of visitors to the Council's website increased by about 50 per cent over the past year. Most Council publications, nonconfidential submissions to the Council and key speeches are available on the website.

The Council produces an electronic newsletter (eNews) that provides news and updates to interested parties. Three newsletters were issued during 2002-03. ENews provided information on the launch of the Council's new

website, the Council's 2002 NCP assessment of governments' progress in implementing NCP reforms and supplementary NCP assessments. ENews included links to other documents so that interested recipients could access more detailed information. Between June 2002 and June 2003 the number of subscribers doubled to 740.

Publications

The Council's publications include reports on its assessment work, its recommendations on applications under part IIIA of the Trade Practices Act and under the national gas code, discussion papers and other documents to assist community understanding of NCP issues. Most of these publications are available on the Council's website or in hard copy from the Council. Box B3.3 lists the publications produced in 2002-03.

Box B3.3: Council publications in 2002-03

Assessment documents

Report on Western Australia's progress with implementing the National Water Quality Management Strategy: outstanding issues, 2002 assessment, April 2003

Water reform in New South Wales: National Competition Policy supplementary 2002 water reform assessment, April 2003

Water reform in Queensland: NCP supplementary water reform assessment, March 2003

Urban water service providers in Tasmania — asset valuation methods and full cost recovery: NCP supplementary water reform assessment, October 2002

Assessment of governments' progress in implementing the National Competition Policy and related reforms, Volume one: assessment, August 2002

Assessment of governments' progress in implementing the National Competition Policy and related reforms, Volume two: water reform, August 2002

Recommendations

Application for revocation of coverage of the City Gate to Berrimah pipeline under the national gas access regime: final recommendation, April 2003

Application for revocation of coverage of the Mildura distribution system under the national gas access regime: final recommendation, December 2002

Queensland access regime for gas pipeline services: final recommendation, November 2002

Application for declaration of the Wirrida–Tarcoola rail track service: final recommendation, July 2002

(continued)

Box B3.3 continued

Other documents

2003 National Competition Policy assessment framework for water reform, February 2003

Restrictions on water trading between irrigation districts, January 2003

Pricing rural water outside irrigation districts, January 2003

National access regime — A guide to part IIIA of the Trade Practices Act 1974: part C certification of access regimes, February 2003

National access regime — A guide to part IIIA of the Trade Practices Act 1974: part A overview, December 2002

National access regime — a guide to Part IIIA of the Trade Practices Act 1974: part B declaration, December 2002

Water reform: who pays for the environment, Report for the National Competition Council by PIRAC Economics, November 2002

Annual report 2001–2002, September 2002

A viable and sustainable water industry, Staff discussion paper, July 2002

Dividend policy issues for government business enterprises engaged in providing water services, Report for the National Competition Council by NECG, July 2002

C1 Corporate governance and organisation

The National Competition Council is an independent advisory body for all Australian governments involved in implementing the National Competition Policy (NCP). The Australian Government funds the Council and its secretariat through Budget appropriations.

Corporate Governance

The Council's corporate governance framework is designed to establish accountability and create decision-making processes that effectively and efficiently manage the Council's resources and allocate those resources to NCP priorities.

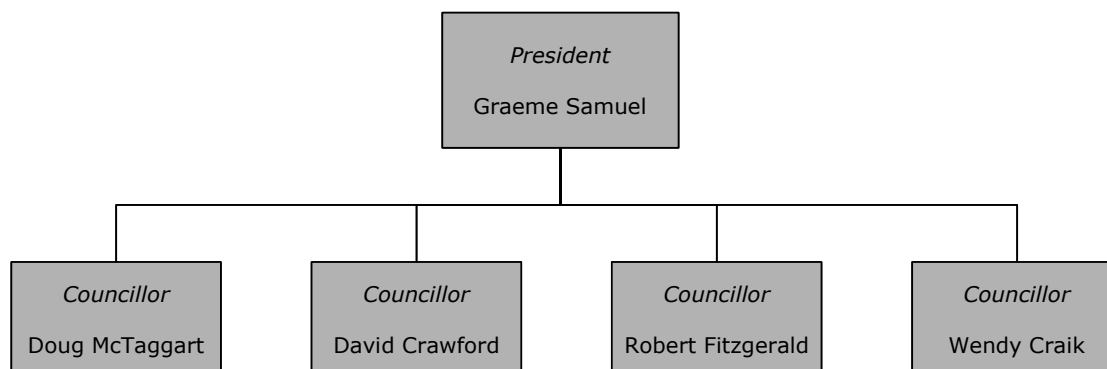
The Council is responsible for the activities of the organisation, consistent with the requirements of the *Trade Practices Act 1974*, the intergovernmental agreements on National Competition Policy and related reforms and any subsequent amendments to those agreements. Part IIA of the Trade Practices Act specifies the processes for appointing councillors, conducting Council meetings and disclosing interests by councillors.

The outcome and outputs of the Council are agreed with the Department of Finance and Administration and reported in the portfolio Budget Papers. The *Corporate Plan*, endorsed by the Council, specifies activities that contribute to the outcome and outputs. The Council's annual report details the achievements of the Council over the financial year and how they have contributed to the Council's objectives.

Like any agency funded by the Australian Government, the Council has embraced all of the management, accountability, financial and employment reforms applicable to Government agencies.

The Council

The Council comprises five part-time councillors (including a president). Figure C1.1 illustrates the structure of the Council at 30 June 2003.

Figure C1.1: National Competition Council organisation chart, 30 June 2003

The councillors are drawn from various parts of Australia and different industry sectors to provide a range of skills and experience (box C1.1). The Australian, State and Territory governments appoint them for a three-year term. At 30 June 2003, the councillors were Graeme Samuel (President), Wendy Craik, David Crawford, Robert Fitzgerald and Doug McTaggart. On 1 July 2003, Mr Samuel resigned as President to take up the position of Chair of the Australian Competition and Consumer Commission. Dr Craik was appointed Acting President.

Box C1.1: Councillor profiles**Graeme Samuel**

Mr Samuel's professional career commenced as a partner of the law firm Phillips Fox & Masel from 1972 to 1980. He then became executive director of Hill Samuel Australia Limited and subsequently of Macquarie Bank Limited from 1981 to 1986, and co-founder of Grant Samuel and Associates in 1988.

Mr Samuel has held the following public offices:

- Chair of the Melbourne and Olympic Parks Trust (current)
- president of the National Competition Council (1997-2003)
- commissioner of the Australian Football League (1984-2003)
- member of the Board of the Docklands Authority (1997-2003)
- director of Thakral Holdings Limited (1993-2003)
- president of the Australian Chamber of Commerce and Industry (1995-97)
- chair of Playbox Theatre Company (1983-95)
- chair of Opera Australia (1995-2000)
- trustee of the Melbourne Cricket Ground Trust (1992-98)
- chair of the Inner and Eastern Health Care Network (1995-2000).

Mr Samuel holds the following degrees and awards:

- Bachelor of Laws (Melbourne University)
- Master of Laws (Monash University)
- Life Member of the Australian Football League (1995)
- Officer in the General Division of the Order of Australia (1998)
- Australian Sports Medal, for services to sport (2000)
- Honorary Fellow of the Australian Institute of Company Directors (2000)
- Centenary Medal in recognition of his service as president of the National Competition Council (2003).

(continued)

Box C1.1 continued**Wendy Craik**

Dr Craik has been a councillor with the National Competition Council since November 2000 and is a part-time consultant for ACIL Tasman, Chair of the Australian Fisheries Management Authority, council member of the Australian Institute of Marine Science, board member of the Foundation for Rural and Regional Renewal, and Chair of the National Rural Advisory Council.

Dr Craik's previous appointments include: executive director of the National Farmers Federation (1995–2000); chief executive officer of Earth Sanctuaries Limited; executive officer of the Great Barrier Reef Marine Park Authority; and member of the Australian Landcare Council, the CSIRO Land and Water Sector Advisory Committee, the Australian Information Economy Advisory Council and the board of the Institute of Land and Food Resources, Melbourne University.

Dr Craik holds a Bachelor of Science (Honours) from the Australian National University, a PhD in Zoology from the University of British Columbia and a Graduate Diploma of Management from the Capricornia Institute of Advanced Education.

David Crawford

Mr Crawford has been a councillor with the National Competition Council since October 1998 and is Chair of Westralia Airports Corporation Pty Ltd, Export Grains Centre Limited and Supersoftware (International) Pty Ltd, and a director of Grain Biotech Australia Pty Ltd and Canola Breeders Western Australia Pty Ltd. Mr Crawford is Chair of the Board of Advisors of Curtin University Graduate School of Business and a management committee member of both educational and service organisations.

Previous senior managerial appointments include corporate affairs director of Wesfarmers Limited, managing director of Western Collieries Ltd, chief operating officer of Ranger Minerals NL and managing director of Abosso Goldfields Limited. Mr Crawford has been a member and/or chair of a number of government and non-government committees in the agriculture and mining industries.

Mr Crawford has an honours degree in economics from the University of Queensland and a masters degree (political science) from the University of Toronto. He is also a Fellow of the Australian Institute of Company Directors.

Robert Fitzgerald

Mr Fitzgerald has been a councillor with the National Competition Council since October 1998 and holds the appointment of Community and Disability Service Commissioner in New South Wales. He was the associate commissioner on the Productivity Commission's inquiry into Australia's gambling industries in 1999. Mr Fitzgerald practised as a commercial solicitor and senior management consultant for over 20 years.

Mr Fitzgerald's previous community positions include national president of the Australian Council of Social Services (1993–97), commissioner with the New South Wales Catholic Commission on Employment Relations, State president of the St Vincent de Paul Society (New South Wales) (1989–94) and chair of JOB Futures (a national network of community-based employment services organisations).

Mr Fitzgerald has also held appointments as chair of the Franchise Code Administration Council, chair of the Commonwealth Franchising Task Force, member of the Advisory Council to the Law Foundation of New South Wales, member of the Special Policy Advisory Group to the Minister for Social Security, and chair of the Ministerial Task Force on Community Services (New South Wales).

Mr Fitzgerald holds degrees in law and commerce from the University of New South Wales. He was appointed a Member of the Order of Australia (AM) in 1994.

(continued)

Box C1.1 continued**Doug McTaggart**

Dr McTaggart has been a councillor with the National Competition Council since November 2000 and is Chief Executive Officer of the Queensland Investment Corporation, which manages assets for the Queensland Government. He is Chair of the Investment and Financial Services Association and a council member of the Queensland University of Technology.

Dr McTaggart has held positions as an academic economist, most recently as Professor of Economics and Associate Dean at Bond University. Prior to joining the Queensland Investment Corporation he was the Under Treasurer and Under Secretary of the Queensland Department of Treasury. He has been president of the Economic Society of Australia and a member of the Australian Accounting Standards Board.

Dr McTaggart holds an honours degree in economics from the Australian National University, and a masters degree and PhD from the University of Chicago.

The councillors consider, review and approve all of the National Competition Council's recommendations and major publications before release. The secretariat also briefs the councillors on governance issues at the monthly Council meetings. The Council considers performance against its budget at these meetings.

Council meetings

Table C1.1 lists the meetings of the Council during 2002-03. While the Council generally meets on a monthly basis, its workload sometimes requires more frequent meetings. During 2002-03, the Council met on 13 occasions. It held the meetings in Melbourne and used teleconference facilities to ensure the maximum number of councillors possible were involved in the discussions. In addition to the monthly Council meetings, teleconferences were held in August, November and June.

Mr Samuel, Dr Craik and Mr Fitzgerald attended all 13 meetings. Dr McTaggart and Mr Crawford each attended 11 meetings.

Table C1.1: National Competition Council meetings, 2002-03

23 July 2002	12 November 2002	27 May 2003
8 August 2002	26 November 2002	10 June 2003
27 August 2002	18 February 2003	24 June 2003
24 September 2002	18 March 2003	
7 November 2002	15 April 2003	

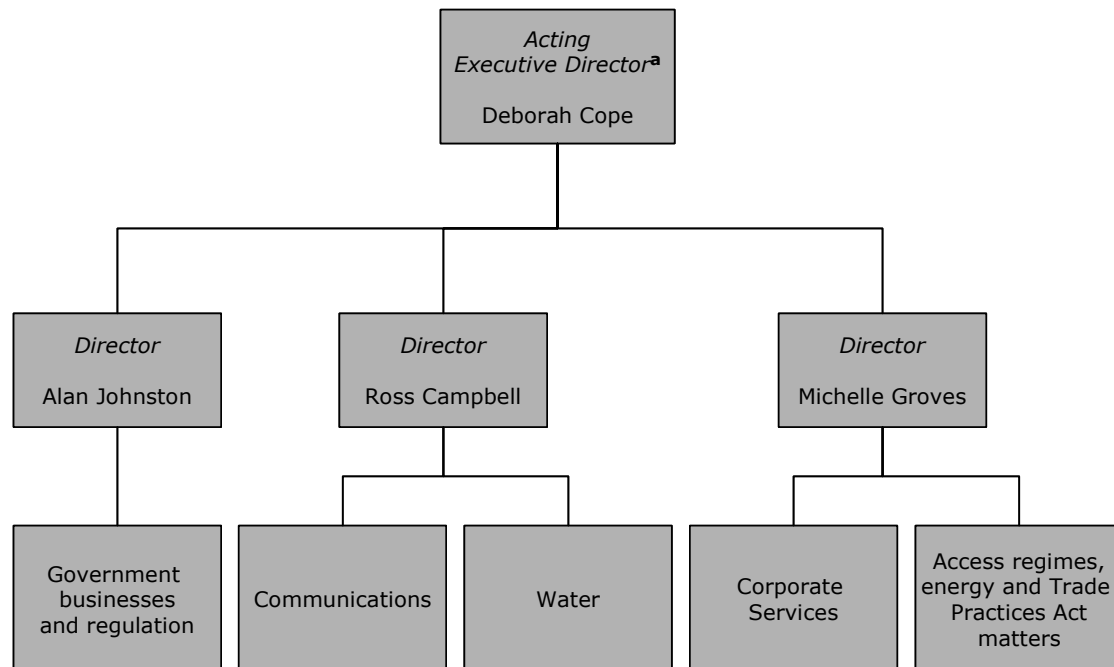
Audit Committee

The role of the Council's Audit Committee is to improve the organisation's financial reporting by overseeing the financial reporting processes, audit functions, risk management and internal controls. The Audit Committee met twice during 2002-03: 2 July 2002 and 13 August 2002. It discussed the preparation of financial statements, and the Council's corporate plan, risk management plan and fraud control plan. The independent Chair Mr Kevin Courtney, Council President Mr Graeme Samuel, Council Executive Director Mr Ed Willett, other members of the Council staff and representatives of the Council's auditors and accountants, attended both meetings.

The secretariat

The Council is supported by a secretariat (figure C1.2) located in Melbourne. The secretariat provides advice and analysis at the Council's direction on matters related to the implementation of the NCP. It represents the Council in dealings with officials from Australian, State and Territory governments and other parties with interests in NCP matters.

Figure C1.2: National Competition Council secretariat organisation chart, 30 June 2003



^a John Feil took up the permanent position as Executive Director on 28 June 2003.

The executive director, supported by the rest of the executive team, has responsibility for the day-to-day management of the secretariat. The executive team includes the executive director and the three directors. It

meets weekly and is responsible for managing policy and expenditure decisions. Minutes of the executive meetings are circulated to all staff and the Council president.

The executive reviewed several policies and procedures during 2002-03, including delegations and accounts processing. Each staff member is issued with a *Policy manual* and a separate *Procedures manual* that detail corporate governance matters. These documents encompass issues such as the Australian Public Service values and what is expected of Australian government employees.

Internal and external scrutiny

Mechanisms for internal and external scrutiny include: formal reviews of NCP, NCP issues and the role of the Council; legal mechanisms for reviewing Council decisions; and the Council's processes for engaging with stakeholders.

The two main reviews of NCP issues released during 2002-03 were the national energy markets review and the review of the national access regime. Warwick Parer chaired the review of national energy markets, releasing the final report and recommendations on 20 December 2002 (Parer 2002). The report noted that the electricity and gas reforms of the past decade have been beneficial, but that serious deficiencies remain. Governments are drawing on the review recommendations as they develop future energy reforms.

The Australian Government released the Productivity Commission's Review of the national access regime in September 2002 (PC 2001). The commission's report recommended retaining the regime but proposed changes to improve the regime's operation. In its interim response, the Government supported the intention of the majority of the commission's recommendations.

Box C1.2 contains those recommendations relevant to the Council that have been endorsed by the Australian Government.

Box C1.2: Relevant recommendations from the Productivity Commission's review of the national access regime

6.4 While the current exclusions from the coverage of Part IIIA should be retained, developments in relation to the 'production facility' exemption should be monitored by the National Competition Council (NCC). Should judicial interpretation of that exemption lead to outcomes that detract from efficiency, it may be necessary to remove the provision or clarify its intent.

The interpretation of the facility exemption was raised in Normandy Power's application for declaration of services provided by Western Power. As discussed in chapter B1, the application to the Council and the proceedings in the Federal Court were withdrawn before the production process exemption was considered. The Council will continue to monitor the application of the production process exemption and report developments in its annual report.

(continued)

Box C1.2 continued

9.3 The parties to the CPA and the NCC should investigate how best to provide for 'interim' and 'conditional' certifications, including whether such provisions would need to be reflected formally in Clause 6 of the Competition Principles Agreement (CPA).

The Australian Government proposed to write to the States and Territories encouraging the parties to the CPA to investigate how to best provide for 'interim' and 'conditional' certifications. These issues are being considered by governments.

10.3 The Gas Code should be amended to provide that, where a pipeline owner potentially covered by the Code lodges a Part IIIA undertaking, this should trigger an assessment by the NCC to determine whether the pipeline meets the requirements for coverage under the Code. The ACCC assessment of the Part IIIA undertaking should be held over pending the outcome of the Council's inquiry.

The Australian Government decided to consider this issue in the review of the national gas access regime. The Government has sent a terms of reference to the Productivity Commission directing it to conduct the review.

15.3 In addition to a 60 day limit for Ministerial decisions on declaration and certification applications (see recommendation 15.2), target time limits should apply to the other steps in the Part IIIA process:

- *For assessments by the NCC of declaration applications, the target time limit should be four months.*
- *For assessments by the NCC of certification applications and by the ACCC of undertaking applications, the target time limit should be six months.*
- *For arbitrations for declared services by the ACCC, the target time limit should be six months.*
- *For the processing of appeals on any of these matters by the ACT, the target time limit should be four months.*

These targets should be specified legislatively, along with a provision that if the NCC, the ACCC or the ACT wishes to extend a target limit in a particular case, they be required to publish notification to that effect in a national newspaper. The annual reports of the NCC and the ACCC should contain information on the actual time taken to deal with matters subject to these time limits.

Target times have not been included in the TPA so there is no requirement for the Council to advertise extensions of time. The Council continues to consider all applications as expeditiously as possible while fully analysing all of the relevant issues. This report contains information on when applications were received and when the final recommendations were sent to the relevant Minister.

15.5 Ministers, the NCC and the ACCC should be required to publish reasons for their decisions or recommendations relating to applications for declarations and certifications and proposed undertakings. If Ministers fail to make a decision on a declaration or certification recommendation within the 60 day time limit, this should be deemed as acceptance of the NCC recommendation.

The Council has published a comprehensive document that sets out the reasoning for its recommendation in all part IIIA and gas code matters.

15.7 Part IIIA should include explicit provision to expedite extensions of certifications and undertakings as follows:

- *Six months prior to the expiry of a certification or undertaking, the NCC or the ACCC would be required to seek public comment on the need for any change to the existing arrangements.*
- *On the basis of that input and other relevant information, the NCC or the ACCC would have the option of making a case for change.*
- *If the NCC or ACCC did not do so, and the service provider did not wish to make changes, extension of the arrangement in question would be automatic.*
- *For certifications, the duration of the extension would be determined by the Minister on advice from the NCC. For undertakings, the duration would be determined by the ACCC. Standard appeal rights would apply to these determinations.*

(continued)

Box C1.2 continued

The Australian government intends to introduce a process to allow extensions of certifications to be requested six months prior the expiry.

16.1 The NCC should be required to report annually on the operation and effects of the National Access Regime. Reporting by the NCC should contain information and commentary on:

- *statutory and judicial interpretation of the (strengthened) declaration criteria;*
- *any factors that have impeded the Regime's capacity to deliver efficient access outcomes;*
- *evidence of benefits arising from access determinations under the Regime;*
- *evidence of associated costs, including any evidence of disincentives created for investment in essential infrastructure; and*
- *implications for the national access framework in the future.*

The Council has included a discussion of access regulation in this annual report, covering tribunal decisions, access applications and decisions and the Council's views on the future reform directions in electricity and gas. During 2002-03, the Council published its guide to the national access regime, which discusses the interpretation of declaration and certification criteria and relevant judicial interpretations.

In 2002-03 parliamentary reviews of the provision and use of water included:

- the House of Representatives Standing Committee on Agriculture, Fisheries and Forestry inquiry into the future of water supplies for Australia's rural industries and communities;
- the Senate Environment, Communications, Information Technology and the Arts Committee inquiry into Australia's management of urban water; and
- the Senate Rural and Regional Affairs and Transport Committee inquiry into rural water resource use.

During 2002-03, the Council induced no comments by the Ombudsman and no decisions by the administrative tribunals on matters involving the Council. The Council's financial statements and procedures were subject to audit by the Auditor-General. Governments will review the terms and operation of the Conduct Code Agreement, the Competition Principles Agreement and the Agreement to Implement the National Competition Policy and Related Reforms before September 2005, along with the Council's assessment role.

Under both part IIIA of the Trade Practices Act and the national gas access code, the Australian Competition Tribunal reviews decisions by the designated Commonwealth Minister or State Premier. The Minister's or Premier's decisions are made in response to a recommendation from the Council. Two such matters were before the Australian Competition Tribunal in 2002-03.

Freight Victoria Limited, a private company trading as Freight Australia, applied for declaration of services provided by the rail lines that it leases from the Victorian Government (excluding services provided by sidings and some branch lines). In February 2002, the Minister accepted the Council's recommendation and declared the service that was the subject of the application. In February 2002, Freight Australia applied to the Australian

Competition Tribunal for a review of the Minister's decision. Freight Australia withdrew its application for review in August 2002.

AuIron Energy Limited applied for declaration of the service provided by the Wirrida–Tarcoola rail track. The facilities used to provide the services on the Wirrida–Tarcoola rail track are owned by the Australian Rail Track Corporation Limited and leased to the Australasia Pacific Transport Consortium, which is managed by Asia Pacific Transport Pty Ltd. On 4 September 2002, the Minister accepted the Council's recommendation and declared the service provided by the use of the Wirrida–Tarcoola rail track for five years, effective from 27 September 2002. On 18 October 2002, Asia Pacific Transport applied to the Australian Competition Tribunal for a review of the Minister's decision. On 10 March 2003, the tribunal decided to set aside the Minister's decision to declare the service provided by the Wirrida–Tarcoola rail track, on the procedural basis that there was no probative evidence before it upon which it could be affirmatively satisfied of the criteria set out in section 44H(4) of the *Trade Practices Act 1974*.

The Council is also subject to external scrutiny through its published recommendations to all governments on matters relating to access determinations and competition reforms, and through its other external publications.

During 2002-03, the Council secretariat was involved in several intergovernmental committees dealing with competition issues, including the National Gas Pipelines Advisory Committee, the Competitive Neutrality Roundtable Committee, the Regulators Forum, the Regulation Review Agencies meeting and the Council of Australian Governments (CoAG) senior officials meetings.

Secretariat staff frequently met with stakeholders to discuss NCP issues. Staff presented conference papers on issues related to their work program and produce publications (including staff discussion papers), which are available on the Council's website (www.ncc.gov.au). The discussion in chapter B3 on communications details the Council's processes for providing information and engaging with stakeholders, including its publications, conference papers and processes for requesting submissions from interested parties.

Overview of staffing developments

At 30 June 2003, the staff comprised three directors, 10 research/policy officers, two administrative staff and a communications officer. Deborah Cope filled the executive director position on a temporary contract, from December 2002, pending the appointment of a permanent officer. John Feil took up the permanent position as Executive Director on 28 July 2003. There were 16 secretariat staff at 30 June 2003.

The Council is a small organisation that covers diverse issues and has always drawn on the expertise of people in other organisations. As well as engaging

consultants (who are sometimes under contract to work within the Council offices), the Council seconded officers from other government and private organisations to work on specific projects in 2002-03.

The majority of secretariat staff are employed under the Public Service Act 1999. A certified agreement governs staff conditions of employment. At 30 June 2003, all Senior Executive Service (SES) officers and three non-SES officers were employed under Australian workplace agreements and two were employed on contracts. Superannuation is the only non-salary benefit provided to staff. The executive director position is at the SES2 level and the three director positions are at the SES1 level. Information on staff profiles is in tables C1.2 and C1.3.

Table C1.2: Staff profile, 30 June 2003

<i>Level</i>	<i>Salary range (\$'000)</i>	<i>Female</i>	<i>Male</i>	<i>Total</i>
Senior Executive Service, band 2	Up to 188		Vacant	
Senior Executive Service, band 1	102-120	1	2	3
Executive levels 1-2	63-102	4	5	9
Administrative Service Officer, grades 5-6	46-63	3	1	4
Administrative Service Officer, grades 1-4	17-45	0	0	0
Total		8	8	16

Table C1.3: Staff by employment status, 30 June 2003

<i>Level</i>	<i>Female</i>	<i>Male</i>	<i>Total</i>
Full-time permanent (ongoing)	4	7	11
Full-time temporary (non-ongoing)	1	0	1
Part-time staff	3	1	4
Total	8	8	16

Consultants

The Council engaged consultants in 2002-03 when efficient and cost-effective to do so. Table C1.4 lists the number and value of consultancies engaged. Some projects are ongoing, so the total cost will not be paid until 2003-04.

Table C1.4: Summary of consultants engaged, 2002-03

<i>Purpose</i>	<i>Contract amount (\$)</i>
Legal advice	99 003
Litigation	205 390
Economic advice	198 574
Communications and corporate services	325 056
Information technology	87 105
Total	915 128

C2 Functions

Agency overview

The role of the National Competition Council is to oversee and assist the implementation of the National Competition Policy (NCP) and related reforms outlined in frameworks developed and agreed on by all Australian governments. The Council's responsibilities include assisting public awareness of competition reform agendas, recommending on the design and coverage of infrastructure access regimes under part IIIA of the *Trade Practices Act 1974* and assessing whether States and Territories have made satisfactory progress towards NCP reform.

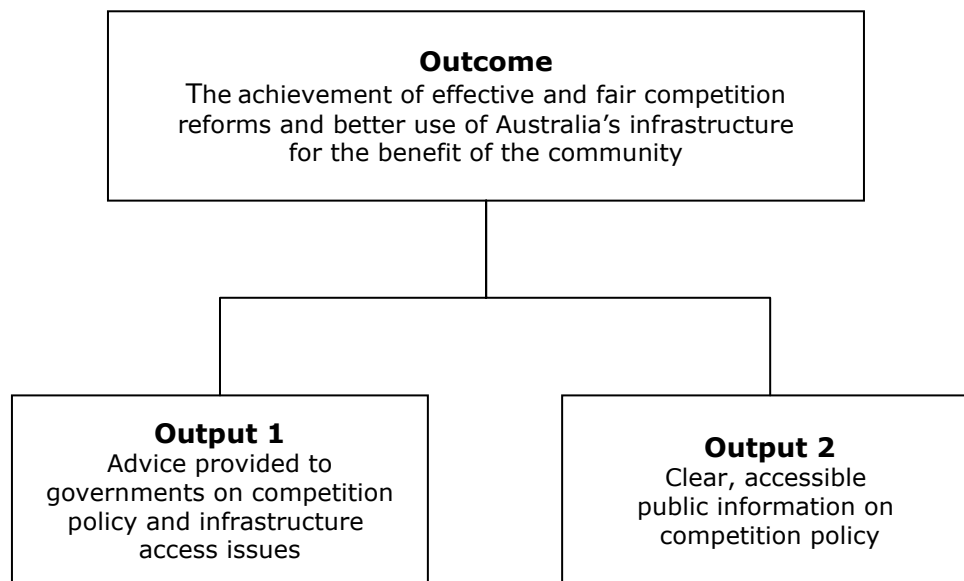
The Council's vision is that it will help deliver Australia's competition policy and program of related reforms by providing objective and constructive advice to governments, thus achieving outcomes that benefit the community as a whole. One of the Council's goals is to build community awareness and understanding of, and support for, Australia's NCP. This approach encourages increased competition where it will result in greater economic growth, reduced unemployment, better social outcomes and the better use of resources for all Australians.

The above vision is embodied in the Council's mission: 'To improve the wellbeing of all Australians through growth, innovation and rising productivity, by promoting competition that is in the public interest'.

Agreed outcome and outputs

Figure C2.1 represents the Council's planned outcome and outputs, as developed and agreed on through the Budget process. The planned outcome relates to the high-level Government outcome of 'well functioning markets', which is part of the overall Government outcome of 'strong, sustainable economic growth and the improved wellbeing of Australians'.

Figure C2.1: National Competition Council's planned outcome and contributing outputs



The Council's two outputs are discussed in detail in part B of this annual report. Performance against the Council's outcome is discussed in chapter A.

Activities

The Council has statutory responsibilities under both the *Trade Practices Act 1974* and the *Prices Surveillance Act 1983* to make recommendations to relevant governments on:

- the design and coverage of infrastructure access regimes; and
- whether State and Territory government businesses should be subject to prices surveillance by the Australian Competition and Consumer Commission.

Apart from these statutory responsibilities, the three NCP agreements establish the following roles for the Council:

- advice on the progress made against the competition policy agreements;
- other advice on competition policy as agreed on by a majority of the stakeholder governments; and
- advice to the Australian Government when considering overriding State or Territory exceptions from the Trade Practices Act.

The Council has an implied function of supporting NCP processes and appropriate reform, as reflected in the Council's mission statement and goals (box C2.1). Of these activities, the design and coverage of infrastructure access regimes and advice on governments' progress in implementing NCP reforms (including discussions with State and Territory governments in formulating that advice) use most of the Council's resources. Another significant area of activity is the building of community awareness of NCP reforms.

The Council delivers its functions and responsibilities through its work program areas (box C2.1).

Box C2.1: National Competition Council's mission statement, goals and work program

Mission Statement

To improve the wellbeing of all Australians through growth, innovation and rising productivity, by promoting competition that is in the public interest.

Goals

- To facilitate timely implementation of effective and fair competition reforms by governments
- To promote better use of Australia's resources
- To build community awareness and understanding of, and support for, Australia's NCP
- To ensure the Council is a dynamic organisation, capable of providing a safe, healthy and professional work environment for its staff and developing their full potential

Work program

- Facilitation and assessment of governments' progress in implementing NCP and related reforms
- Provision of recommendations to governments on access to infrastructure
- Ongoing improvement of the Council's operational standards in leadership, strategic direction, information systems, support services, resource allocation and staff development
- Building of community awareness and understanding of, and support for, the NCP

C3 Management

Staff development and management

Training

Excluding the salary costs of Council staff undertaking training, a total of \$38 560 (representing approximately 3 per cent of the secretariat's salary costs) was devoted to staff training and development for 2002-03. All secretariat staff received some training during the year.

All staff were offered in-house training in occupational health and safety (covering workstations and posture) and computer skills. In addition, various staff participated in training in areas such as financial planning, skill development and professional development, including presentation skills, report writing and parliamentary procedures. Secretariat staff attended approximately 15 conferences on issues associated with competition policy and its implementation. Two officers received assistance to undertake further tertiary education.

Certified Agreement 2001–03

The Council's certified agreement for 2001–03 was prepared in accord with the *Workplace Relations Act 1996* (s. 170LK) and certified by the Australian Industrial Relations Commission on 4 September 2001. Operating until 1 August 2003, the agreement sets out the terms and conditions of employment for secretariat staff below the Senior Executive Service (SES) level. It establishes the secretariat's salary structure and arrangements for performance development, including performance-based advancement through a broadband classification structure. The agreement also sets out the arrangements for a family-friendly and flexible workplace, including provisions for part-time work and home-based work. It includes redeployment and redundancy provisions, and provides for each member of staff to negotiate an Australian workplace agreement.

Industrial democracy

The Council's *Industrial democracy plan* was the basis of its industrial democracy practices during the year. The Council's executive director has

formal responsibility for the implementation of industrial democracy principles and practices.

The secretariat executive, which includes the executive director and the three directors, meets weekly. Minutes of this meeting are circulated to all staff, who also meet weekly to review the work priorities and discuss other management issues and the secretariat's work program.

These staff meetings are the principal means of informing secretariat staff of management decisions and inviting staff consideration of issues facing the organisation. Proposed changes to research priorities, staffing arrangements, accommodation, office policies, occupational health and safety, information technology issues and training are discussed at these regular meetings. During 2002-03, most staff participated in decisions on information technology requirements (including training), office relocation and the adoption of workplace agreements. Work teams also met during the year to discuss work priorities and progress.

Occupational health and safety

During 2002-03, the Council undertook or continued the following initiatives to ensure the health and safety of its staff and contractors.

- Management undertook in-house training on an 'OHS awareness for managers' course run by Comcare.
- Staff agreed on the re-appointment of the existing occupational health and safety representative and the appointment of a new deputy occupational health and safety representative.
- Staff were offered the option of attending occupational health and safety training, and training was organised for the deputy occupational health and safety representative.
- The occupational health and safety committee met quarterly and reported to the weekly staff meeting.
- An occupational health and safety policy statement was circulated to staff and forwarded to the chair of the Audit Committee.
- Eyesight testing for screen-based users was offered to all staff.
- Flu vaccinations were offered to all staff.
- The annual Health Futures program was again offered to all staff.
- A confidential counselling service, through the Employee Advisory Program, continued to be available to all staff.

-
- An asbestos check was undertaken on the proposed new premises before a final decision was made on the relocation.
 - An ergonomic assessment of staff work stations was carried out on the new premises. Additional assessments were available to staff on request.
 - Equipment was purchased, based on the recommendations of the ergonomic assessment.
 - The fire wardens undertook fire safety training.
 - A six-monthly service and checks were carried out on the fire extinguishers.
 - The first aid officer was re-appointed.

The Council received no accident/incident reports during 2002-03. No notices were lodged and no directions were given to the Council under ss 30, 45, 46 or 47 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* during the year.

Outsourcing (corporate services)

During 2002-03, the Council outsourced or market tested the following corporate services functions:

- accounting and finance (the AIMS interface, reporting, the accounting package, accounts processing and monthly reconciliations);
- the editing and printing of Council publications;
- payroll and human resource management (payroll processing, the maintenance of personnel files, and advice on industrial relations and personnel matters);
- the website restructure;
- library services and information;
- the maintenance of databases;
- document storage;
- supply and maintenance of plants;
- property management; and
- internal office maintenance.

The Council contracted Haines Norton (Vic.) Pty Ltd to input accounting payment data, prepare monthly expenditure reports and complete the end-of-

year financial statements. The Australian Government Treasury is contracted to provide all other financial services to the Council. The Treasury processed the Council's accounts during 2002-03 using the SAP (R3.1) package accounting software. As a Government body, the Council is required by the Department of Finance and Administration to reconcile its GST components on a monthly basis.

During 2002-03, contracts were renegotiated for library services, information technology, air travel, the leasing of new premises, the hire of plants, and personnel and accounting services. The Council's purchasing was consistent with the Australian Government Treasury policy and the Australian Government procurement guidelines. The key elements of these guidelines are value for money, efficiency and effectiveness, accountability and transparency, ethics and industry development.

Equity matters

Social justice

Within its work program, the Council addresses social justice issues in two main contexts. First, in conducting its functions related to the national access regime, the Council must consider public interest issues. Matters that the Council may consider include:

- policies concerning occupational health and safety, industrial relations, access to justice and other government services, and equity in the treatment of different persons;
- economic and regional development, including employment and investment growth; and
- the interests of consumers generally or a class of consumers.

Second, in assessing jurisdictions' progress in implementing the NCP reforms, the Council must consider the extent to which governments have undertaken reform processes. The NCP agreements allow governments to account for all of the costs and benefits of reform options, including social, environmental and economic considerations. The agreements recognise that social justice considerations can warrant restrictions on competition, although the Council also calls for an examination of whether governments can meet social justice objectives in ways that do not restrict competition. At the same time, the NCP agreements recognise that many restrictions, by advantaging specific groups at a cost to the broader community, promote neither social justice nor economic efficiency.

Application of the Commonwealth disability strategy

The Commonwealth disability strategy recognises that many Commonwealth programs, services and facilities have an impact on the lives of people with disabilities. The strategy is about enabling the full participation of people with disabilities. It obliges Australian Government organisations to remove barriers that prevent people with disabilities from having access to these programs, services and facilities.

The Council's recommendations affect all Australians because they have a positive economic benefit. As noted previously, the Council's mission is to improve the wellbeing of all Australians through growth, innovation and rising productivity, by promoting competition that is in the public interest. Individual recommendations affect the broad community, so the impact on sections of the community is not necessarily specific. The design of the Council's policies does not discriminate against any group within the community. The Council met the performance criterion for the year, because its policies did not isolate people in the community with disabilities.

Further, the Council's consultation process does not discriminate against any group within the community, satisfying that performance criterion in 2002-03. Similarly, the Council's recruitment policy does not discriminate on the basis of race, disability, colour, sex or religion. Recruitment information is available in electronic and hard copy formats.

The Council developed its workplace, including the office access office facilities and workstations, with the aim of reducing barriers to access by people with disabilities. Council reports are available in hard copy and electronically; on request, they can be supplied in MS Word format to facilitate the use of computer programs designed to assist people with a visual impairment.

Workplace diversity

The Council continued to apply its *Workplace diversity plan* in 2002-03. All recruitment conducted during the year included a selection criterion relating to an understanding of the principles and practical effects of workplace diversity policies. Selection panels included at least one male and one female, and were recorded by a professional scribe. At 30 June 2003, 11 secretariat staff identified themselves as members of an equal employment opportunity group (table C3.1).

Table C3.1: Staff by equal employment opportunity (EEO) group, 30 June 2003

<i>Level</i>	<i>Female</i>	<i>NESB 1^a</i>	<i>NESB 2^a</i>	<i>A&TSI^b</i>	<i>Persons with disabilities</i>
Senior Executive Service	1		1		
Senior Officer Executive, levels 1-2	4		1		
Administrative Service Officer, grades 1-6	3		1		
Total	8	0	3	0	0

^a Non-English speaking background (first and second generation). ^b Aboriginals and Torres Strait Islanders.

Source: Internal survey. (Response to this survey was optional.)

The Council identified and trained contact officers for both workplace diversity and sexual harassment issues, and distributed information on a harassment-free workplace to staff. No workplace harassment was reported during 2002-03.

Other matters

Ecologically sustainable development

The Council addresses ecologically sustainable development issues in two contexts. First, in making recommendations under the national access regime and the gas code, the Council is required to consider the public interest. The Council regards the scope of this consideration as including government legislation and policies on ecologically sustainable development.

Second, in assessing jurisdiction's progress in implementing reforms the Council must consider whether governments have met their NCP commitments. For assessment of whether restrictions on competition are in the public interest, the agreements recognise that ecologically sustainable development is a relevant consideration.

The water agreements contain explicit environmental obligations. Governments have agreed to: allocate water for environmental purposes; show that investments in new rural water infrastructure are ecologically sustainable; ensure trading arrangements (particularly cross-border trading) have appropriate ecological safeguards; and implement integrated resource management arrangements and policies to improve water quality. Other reforms also reinforce this focus on sustainability: (1) relating price directly to water use provides a better incentive for water conservation; (2) the structural separation requirements ensure the businesses providing water and wastewater services do not also have responsibility for regulation, including environmental regulation; and (3) the requirement that governments undertake public education and consultation programs on water reform helps the implementation of reform by improving people's

understanding of the need for change. Full implementation of the water reform program will have significant environmental benefits.

Freedom of information

The Council received two requests for documents under the *Freedom of Information Act 1982* during 2002-03.

Categories of documents held by the Council

The secretariat holds three classes of document. First, it holds representations to the Council's president, executive director and staff. The Council receives correspondence covering aspects of government microeconomic policy and administration. Second, it holds files relevant to the Council's operations. The documents on these files include correspondence, analysis and policy advice prepared by secretariat officers. Four main categories of file are relevant to the Council's operations:

- Council views on the progress of Commonwealth, State and Territory governments in implementing the NCP reforms;
- Council recommendations on applications for access declarations and the certification of access regimes. The designated Ministers are required to publish their decisions on these applications. The Council makes its recommendations and reasons publicly available after the designated Minister has published a decision. In the case of a declaration application, if the designated Minister does not make a decision, then the Council will publish its recommendation 60 days after it is provided to the Minister;
- Council recommendations on coverage under the national gas code, which are made public when sent to the relevant Minister; and
- material relating to other work assigned to the Council (for example, the review of the *Australian Postal Corporation Act 1989* and the review of ss 51(2) and 51(3) of the *Trade Practices Act 1974*).

Third, the Council holds documents on internal office administration, such as documents relating to the personal details of staff and to the organisation and operation of the Council. They include personal records, organisation and staffing records, financial and expenditure records, and internal operating documentation such as office procedures and instructions.

Documents open to public access subject to a fee or available free of charge on request

The following categories of document are publicly available:

- the Council's annual reports to Parliament;
- speeches by Council and secretariat staff;
- discussion papers and guides on specific competition policy issues;
- the Council's corporate plans;
- issues papers developed by the Council and applications received for declaration or certification, or under the national gas access code;
- submissions by interested parties on access declaration or certification applications, applications under the national gas access code and other reviews and matters considered in the annual assessments of governments' compliance with the NCP and related reforms (where information contained is not commercial-in-confidence);
- the Council's recommendations on declaration, certification and national gas access code applications.
- assessments and recommendations given to the Treasurer on State and Territory progress in implementing competition policy;
- community information papers and media releases; and
- issues papers, draft reports and final reports on other reviews referred to the Council.

These documents are usually available in both hard copy and electronic form. The Council places as much material as possible on its website (www.ncc.gov.au). Documents, publications and speeches can be obtained directly from the Council.

Facilities for access to Council documents

Applicants seeking access under the Freedom of Information Act to documents in the possession of the Council should apply in writing to:

Director (Freedom of Information Request)
National Competition Council
GPO Box 250B
Melbourne VIC 3001
Attention: Freedom of Information Coordinator

An application fee of \$30 must accompany requests. Unless an application fee is received or an explicit waiver is given, the request will not be processed. Telephone enquiries should be directed to the Freedom of Information Coordinator (telephone 03 9285 7474) between 9.00 a.m. and 5.00 p.m., Monday to Friday.

The Director (Freedom of Information Request) is authorised under s.23 of the Act to grant or refuse requests for access to documents. In accordance with s.54, an applicant may apply to the Executive Director within 28 days of receiving notification of a decision under the Act, seeking an internal review of a decision to refuse a request. The application should be accompanied by a \$40 application review fee, as provided for in the Act.

If access under the Act is granted, then the Council will provide copies of documents after receiving payment of all applicable charges. Alternatively, applicants may arrange to inspect documents at the National Competition Council office, Level 9, 128 Exhibition Street, Melbourne, between 9.00 a.m. and 5.00 p.m., Monday to Friday.

Annual reporting requirements and aids to access

Information contained in this annual report is provided in accordance with:

- s.74 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*;
- s.50AA of the *Audit Act 1901*;
- The *Public Service Act 1999*;
- s.8 of the *Freedom of Information Act 1982*;
- s.29(O) of the *Trade Practices Act 1974*; and
- the guidelines issued by the Department of the Prime Minister and Cabinet.

A compliance index is provided at the end of this section.

For inquiries or comments concerning this report or any other Council publications, please contact:

Executive Director
National Competition Council
GPO Box 250B
Melbourne VIC 3001
Telephone (03) 9285 7474
Facsimile (03) 9285 7477.

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C4 Financial Statements

Financial statements

for the year ended 30 June 2003



INDEPENDENT AUDIT REPORT

To the Treasurer

Matters relating to the Electronic Presentation of the Audited Financial Report

This audit report relates to the financial report of the National Competition Council for the year ended 30 June 2003 included on the National Competition Council's web site. The National Competition Council's President is responsible for the integrity of the Council's web site.

The audit report refers only to the statements named below. It does not provide an opinion on any other information which may have been hyperlinked to/from the audited financial report.

If the users of this report are concerned with the inherent risks arising from electronic data communications they are advised to refer to the hard copy of the audited financial report to confirm the information included in the audited financial report presented on this web site.

Scope

I have audited the financial statements of National Competition Council for the year ended 30 June 2003. The financial statements comprise:

- Statement by the Council President and Principal Accounting Officer;
- Statements of Financial Performance, Financial Position and Cash Flows;
- Schedules of Contingencies and Commitments; and
- Notes to and forming part of the Financial Statements.

The Council's President is responsible for the preparation and presentation of the financial statements and the information they contain. I have conducted an independent audit of the financial statements in order to express an opinion on them to you.

GPO Box 707 CANBERRA ACT 2601
Centenary House 19 National Circuit
BARTON ACT
Phone (02) 6203 7300 Fax (02) 6203 7777

The audit has been conducted in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards, to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with Accounting Standards and other mandatory professional reporting requirements in Australia and statutory requirements so as to present a view which is consistent with my understanding of the Council's financial position, its financial performance and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In my opinion the financial statements:

- (i) have been prepared in accordance with Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*; and
- (ii) give a true and fair view, in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Finance Minister's Orders, of the financial position of National Competition Council as at 30 June 2003, and its financial performance and cash flows for the year then ended.

Australian National Audit Office



Allan M. Thompson
Executive Director

Delegate of the Auditor-General

Canberra
18 September 2003

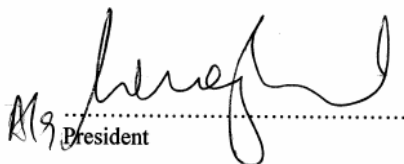
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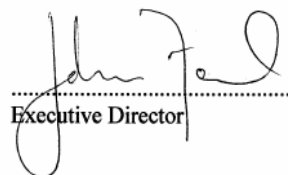
Level 9, 128 Exhibition Street Melbourne 3000 Australia
GPO Box 250B Melbourne 3001 Australia
Telephone 03 9285 7474 Facsimile 03 9285 7477



**NATIONAL COMPETITION COUNCIL
STATEMENT BY THE COUNCIL PRESIDENT AND
PRINCIPAL ACCOUNTING OFFICER**

In our opinion the attached financial statements for the year ended 30 June, 2003 give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*.


.....
President


.....
Executive Director

6 September 2003
.....
Date

4 September 2003
.....
Date

NATIONAL COMPETITION COUNCIL
STATEMENT OF FINANCIAL PERFORMANCE
for the year ended 30 June 2003

	Notes	2003 \$	2002 \$
Revenues from ordinary activities			
Revenues from Governments	2A	3,604,000	3,526,001
Interest	2B	8,085	11,752
Revenue from sale of assets	2C	-	2,600
Other	2D	<u>191,857</u>	<u>26,110</u>
<i>Total Revenues from ordinary activities</i>		3,803,942	3,566,463
Expenses from ordinary activities			
Employees	3A	1,849,017	1,986,653
Suppliers	3B	1,541,788	1,439,813
Depreciation and Amortisation	3C	<u>57,047</u>	<u>58,560</u>
<i>Total Expenses from ordinary activities</i>		3,447,852	3,485,026
Operating Surplus from ordinary activities		<u>356,090</u>	<u>81,437</u>
Net Surplus		<u>356,090</u>	<u>81,437</u>
Total changes in equity other than those resulting from transactions with owners as owners		<u>356,090</u>	<u>81,437</u>

The above Statement should be read in conjunction with the accompanying notes.

**NATIONAL COMPETITION COUNCIL
STATEMENT OF FINANCIAL POSITION**

as at 30 June 2003

	Notes	2003 \$	2002 \$
ASSETS			
Financial Assets			
Cash	4A	449,902	210,575
Receivables	4B	79,632	42,290
Investments	4C	-	200,000
Total financial assets		<u>529,534</u>	<u>452,865</u>
Non-financial assets			
Land and Buildings	5A,C	129,297	21,913
Plant and Equipment	5B,C	87,903	123,173
Other	5D	5,612	18,643
Total non-financial assets		<u>222,812</u>	<u>163,729</u>
Total Assets		<u>752,346</u>	<u>616,594</u>
LIABILITIES			
Provisions			
Employees	6A	415,612	643,748
Total provisions		<u>415,612</u>	<u>643,748</u>
Payables			
Suppliers	7A	192,351	168,553
Total payables		<u>192,351</u>	<u>168,553</u>
Total Liabilities		<u>607,963</u>	<u>812,301</u>
NET ASSETS / (DEFICIENCY)		<u>144,383</u>	<u>(195,707)</u>
EQUITY			
Accumulated surpluses (deficits)	8A	144,383	(195,707)
Total Equity	8A	<u>144,383</u>	<u>(195,707)</u>
Current assets		529,534	452,865
Non-current assets		222,812	163,729
Current liabilities		234,155	213,601
Non-current liabilities		373,808	598,700

The above Statement should be read in conjunction with the accompanying notes

**NATIONAL COMPETITION COUNCIL
STATEMENT OF CASH FLOWS**
for the year ended 30 June 2003

	Notes	2003 \$	2002 \$
OPERATING ACTIVITIES			
Cash received			
Appropriations		3,604,000	3,603,000
Interest		8,085	11,752
Goods and services		<u>154,515</u>	<u>101,719</u>
Total cash received		3,766,600	3,716,471
Cash used			
Employees		(2,077,153)	(1,699,624)
Suppliers		<u>(1,504,959)</u>	<u>(1,780,252)</u>
Total cash used		<u>(3,582,112)</u>	<u>(3,479,876)</u>
Net cash from operating activities	9	<u>184,488</u>	<u>236,595</u>
INVESTING ACTIVITIES			
Cash Received			
Proceeds from sales of property, plant & equipment		<u>-</u>	<u>2,600</u>
Total cash received		<u>-</u>	<u>2,600</u>
Cash used			
Purchase of property, plant and equipment		<u>(129,161)</u>	<u>(104,026)</u>
Total cash used		<u>(129,161)</u>	<u>(104,026)</u>
Net cash used by investing activities		<u>(129,161)</u>	<u>(101,426)</u>
FINANCING ACTIVITIES			
Cash Used			
Return on Capital		<u>(16,000)</u>	<u>-</u>
Total cash used		<u>(16,000)</u>	<u>-</u>
Net cash used by investing activities		<u>(16,000)</u>	<u>-</u>
Net increase in cash held		39,327	135,169
Cash at the beginning of the reporting period		<u>410,575</u>	<u>275,406</u>
Cash at the end of the reporting period	4A,C	<u>449,902</u>	<u>410,575</u>

The above Statement should be read in conjunction with the accompanying notes

**NATIONAL COMPETITION COUNCIL
SCHEDULE OF COMMITMENTS**
as at 30 June 2003

	2003 \$	2002 \$
BY TYPE		
OTHER COMMITMENTS		
Operating Leases ¹	<u>210,588</u>	<u>171,948</u>
Total Other Commitments	210,588	171,948
Commitments Receivable	<u>-</u>	<u>-</u>
Net commitments	<u>210,588</u>	<u>171,948</u>
BY MATURITY		
Operating Lease Commitments		
One year or less	105,294	171,948
From one to five years	105,294	-
Net commitments	<u>210,588</u>	<u>171,948</u>

NB: Commitments are GST inclusive where relevant.

¹ Operating leases included are effectively non-cancellable and comprise:

<i>Nature of Lease</i>	<i>General description of leasing arrangement</i>
Lease for office accommodation	The lease has been taken out for a two year term ending on 9 May, 2005. There is no annual increase in accordance with movements in the Consumer Price Index.

SCHEDULE OF CONTINGENCIES*as at 30 June 2003*

CONTINGENT LIABILITIES	-	-
CONTINGENT ASSETS	<u>-</u>	<u>-</u>
Net contingencies	<u>-</u>	<u>-</u>

The above Statements should be read in conjunction with the accompanying notes.

NATIONAL COMPETITION COUNCIL
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
for the year ended 30 June 2003

Note	Description
1	Summary of Significant Accounting Policies
2	Operating Revenues
3	Operating Expenses
4	Financial Assets
5	Non-Financial Assets
6	Provisions
7	Payables
8	Equity
9	Cash Flow Reconciliation
10	Executive Remuneration
11	Councillors Remuneration
12	Remuneration of Auditors
13	Average Staffing Levels
14	Financial Instruments
15	Related Party Disclosures
16	Appropriations

Note 1 : Summary of Significant Accounting Policies

1.1 Objectives of the National Competition Council

The National Competition Council (the 'Council') was established on, 6 November 1995 by the *Competition Policy Reform Act 1995* following agreement by the Commonwealth, State and Territory governments.

The Council is an independent advisory body for all governments on implementation of the national competition policy reforms. The Council's aim is to help raise the living standards of the Australian community by ensuring that conditions for competition prevail throughout the economy which promote growth innovation and productivity.

The Council's program objectives are:

- to promote micro-economic reform within the community, including by research and providing advice to governments on competition policy matters;
- to recommend on applications for declaration of access to services provided by nationally significant infrastructure and the certification of access regimes under Part IIIA of the Trade Practices Act;
- to recommend on whether State and Territory government businesses should be declared for prices surveillance by the Australian Competition and Consumer Commission, and to report on the costs and benefits of legislation reliant on section 51 of Trade Practices Act.

1.2 Basis of Accounting

The financial statements are required by section 49 of the *Financial Management and Accountability Act 1997* and are a general purpose financial report.

The statements have been prepared in accordance with:

- Finance Minister's Orders (being the *Financial Management and Accountability (Financial Statements 2002-2003) Orders*);
- Australian Accounting Standards and Accounting Interpretations issued by Australian Accounting Standards Boards; and
- Consensus Views of the Urgent Issues Group.

The Statements of Financial Performance and Financial Position have been prepared on an accrual basis and are in accordance with historical cost convention. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

Assets and liabilities are recognised in the Statement of Financial Position when and only when it is probable that future economic benefits will flow and the amounts of the assets or liabilities can be reliably measured. Assets and liabilities arising under agreements equally proportionately unperformed are however not recognised unless required by an Accounting Standard. There are no unrecognised liabilities or assets.

Revenues and expenses are recognised in the Statement of Financial Performance when and only when the flow or consumption or loss of economic benefits has occurred and can be reliably measured.

The continued existence of the Agency in its present form, and with its present programs, is dependent on Government policy and on continuing appropriations by Parliament for the Agency's administration and programs.

1.3 Changes in Accounting Policy

The accounting policies used in the preparation of these financial statements are consistent with those used in 2001-2002, except in respect of:

- The accounting for output appropriations (refer to Note 1.4) ;
- Recognition of equity injections
- The measurement of certain employee benefits at nominal amounts (refer to Note 1.5) ; and
- The initial revaluation of property plant and equipment on a fair value basis (refer Note 1.10).

1.4 Revenue

The revenues described in this Note are revenues relating to the core operating activities of the Council.

(a) Revenues from Government

Departmental outputs appropriations for the year (less any savings offered up in Portfolio Additional Estimates Statements) are recognised as revenue, except for certain amounts which relate to activities that are reciprocal in nature, in which case revenue is only recognised when it has been earned.

(b) Resources Received Free of Charge

Services received free of charge are recognised as revenue when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

(c) *Other Revenue*

Revenue from the sale of goods is recognised upon the delivery of goods to customers.

Revenue from the rendering of services is recognised by reference to the stage of completion of contracts or other agreements to provide services. The stage of completion is determined according to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Interest revenue is recognised on a proportional basis taking into account the interest rates applicable to the financial assets.

Revenue from disposal of non-current assets is recognised when control of the asset has passed to the buyer.

1.5 Employee Benefits

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for wages and salaries (including non-monetary benefits), annual leave, sick leave are measured at their nominal amounts. Other employee benefits expected to be settled within 12 months of the reporting date are also measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability. This is a change in accounting policy from last year required by an initial application of a new Accounting Standard AASB 1028 from 1 July 2002. As the Council's certified agreement raises pay rates on 1 June each year, the financial effect of this change is not material.

All other employee benefit liabilities are measured as the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

(a) *Leave*

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all leave is non-vesting and the average sick leave taken in future years by employees of the Council is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration, including the Council's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The estimate of the present value of the liability for long service leave takes into account attrition rates and pay increases through promotion and inflation.

(b) *Superannuation*

Staff of the Council are members of the Commonwealth Superannuation Scheme and the Public Sector Superannuation Scheme. The liability for their superannuation benefits is recognised in the financial statements of the Commonwealth and is settled by the Commonwealth in due course.

1.6 Leases

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased plant and equipment asset and operating leases under which the lessor effectively retains substantially all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is capitalised at the present value of minimum lease payments at the inception of the lease and a liability recognised for the same amount. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a basis which is representative of the pattern of benefits derived from the leased assets. The net present value of future net outlays in respect of surplus space under non-cancellable lease agreements is expensed in the period in which the space becomes surplus.

Lease incentives taking the form of 'free' leasehold improvements and rent holidays are recognised as liabilities. These liabilities are reduced by allocating lease payments between rental expense and reduction of the liability.

1.7 Cash

Cash means notes and coins held and any deposits held at call with a bank or financial institution.

1.8 Financial Instruments

Accounting Policies for financial instruments are stated at Note 14.

1.9 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition, unless acquired as a consequence of restructuring administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor agency's accounts immediately prior to the restructuring.

1.10 Property (Land, Buildings and Infrastructure), Plant and Equipment

Asset Recognition Threshold

Purchases of property, plant and equipment are recognised initially at cost in the Statement of Financial Position, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form a part of a group of similar items which are significant in total).

Revaluations

All items of leasehold improvements and with historical costs equal to or in excess of \$5,000 and all items of computer, plant and equipment were revalued in accordance with the 'deprival' method (replacement cost) of valuation on 1 July 2000 and thereafter will be revalued progressively on that basis every three years.

Leasehold improvements that were initially acquired in November 1995 in connection with the leasehold were written off as the Council left the premises on 12/05/03. Leasehold improvements associated with the relocation have been capitalised in the financial statements as at 30/6/03.

Most computers were replaced late in June 2000 and therefore are carried at cost as at 30/6/03. The valuation represented by the written down value was considered to approximate their fair value.

The financial effect of the move to progressive revaluations is that the carrying amounts of assets will reflect current values and that depreciation charges will reflect the current cost of the service potential consumed in each period.

Fair and deprival values for each class of asset are determined as shown below.

<i>Asset class</i>	Leasehold improvements	Plant and equipment
<i>Fair value measured at:</i>	Depreciated replacement cost	Market selling price
<i>Deprival value measured at:</i>	Depreciated replacement cost	Depreciated replacement cost

As the written down value of property plant and equipment at 30 June 2003 approximated fair value the total financial effect to the carrying amount of property plant and equipment was nil.

Depreciation

Depreciable property plant and equipment assets are written off to their estimated residual values over their estimated useful lives to the Council using, in all cases, the straight line method of depreciation. Leasehold improvements are amortised on a straight line basis over the lesser of the estimated useful life of the improvements or the unexpired period of the lease.

Depreciation rates (useful lives) and methods are reviewed at each balance date and necessary adjustments are recognised in the current or current and future reporting periods, as appropriate. Residual values are re-estimated for a change in prices only when assets are revalued.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	<u>2003</u>	<u>2002</u>
Leasehold improvements	Lease term	Lease term
Plant and equipment	4 to 9 years	3 to 7 years

The aggregate amount of depreciation allocated for each class of asset during the reporting period is disclosed in Note 3C.

Recoverable amount test

From 1 July 2002, the Schedule 1 no longer requires the application of the recoverable amount test in Australian Accounting Standard AAS 10 *Recoverable Amount of Non-Current Assets* to the assets of agencies when the primary purpose of the asset is not the generation of net cash inflows.

No property plant and equipment assets have been written down to recoverable amount per AAS 10. Accordingly, the change in policy has had no financial effect.

1.11 Inventories

Council provides the bulk of its publications free of charge which means the publications do not have a realisable value. Because of this Council expenses the cost of publications as incurred.

1.12 Taxation

The Council is exempt from all forms of taxation except fringe benefits tax and the goods and services tax (GST).

Revenues, expenses and assets are recognised net of GST:

- Except where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- Except for receivables and payables.

1.13 Insurance

The Council has insured for risks through the Government's insurable risk managed fund, called 'Comcover'. Workers compensation is insured through the Government's Comcare Australia.

1.14 Comparative Figures

Comparative figures have been adjusted to conform to changes in presentation in these financial statements where required.

Note 2 : Operating Revenues

	2003	2002
	\$	\$
<u>Note 2A - Revenues from Government</u>		
Appropriations for outputs	3,585,000	3,506,901
Resources received free of charge	<u>19,000</u>	<u>19,100</u>
Total revenues from government	<u>3,604,000</u>	<u>3,526,001</u>
<u>Note 2B – Interest Revenue</u>		
Interest on deposits	<u>8,085</u>	<u>11,752</u>
<u>Note 2C - Net Gains from Sales of Assets</u>		
Proceeds from disposal	-	2,600
Net book value of assets disposed	<u>-</u>	<u>-</u>
Total net gain from disposal of assets	<u>-</u>	<u>2,600</u>
<u>Note 2D – Other Revenues</u>		
Comcare reimbursements	44,929	16,000
Court costs reimbursed	100,000	-
Revocation applications	37,500	-
Other revenue	<u>9,428</u>	<u>10,110</u>
Total other revenues	<u>191,857</u>	<u>26,110</u>

Note 3: Operating Expenses

	2003	2002
	\$	\$
<u>Note 3A – Employee Expenses</u>		
Wages & salary	1,478,960	1,470,685
Superannuation	201,758	211,002
Leave and other entitlements	<u>95,309</u>	<u>258,456</u>
Total employee benefits expense	1,776,027	1,940,143
Worker compensation premiums	<u>72,990</u>	<u>46,510</u>
Total employee expenses	<u>1,849,017</u>	<u>1,986,653</u>

Note 3B – Suppliers Expenses

Goods from external entities	565,457	585,056
Services from external entities	844,181	712,721
Operating lease rentals	<u>132,150</u>	<u>142,036</u>
Total supplier expenses	<u>1,541,788</u>	<u>1,439,813</u>

Note 3C – Depreciation

Property, plant and equipment	<u>57,047</u>	<u>58,560</u>
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The aggregate amounts of depreciation or amortisation expenses during the reporting period for each class of depreciable asset are as follows:

Leasehold Improvements	18,155	17,578
Plant and equipment	<u>38,892</u>	<u>40,982</u>
Total depreciation	<u>57,047</u>	<u>58,560</u>

Note 4: Financial Assets

	2003	2002
	\$	\$

Note 4A – Cash

Cash on hand:

Departmental (other than special accounts)	<u>449,902</u>	<u>210,575</u>
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Note 4B – Receivables

GST receivable	42,514	26,290
Revocation applications	15,000	-
Comcare Receivable	21,845	16,000
Other	<u>273</u>	<u>-</u>
Total receivables (gross)	<u>79,632</u>	<u>42,290</u>

All receivables are current assets

Receivables (gross) are aged as follows:

Not Overdue	-	-
Overdue by:		
Less than 30 days	-	-
30 to 60 days	57,787	26,290
60 to 90 days	-	-
More than 90 days	<u>21,845</u>	<u>16,000</u>
Total receivables (gross)	<u>79,632</u>	<u>42,290</u>

Note 4C – Investments

Term deposits (current)	<u>-</u>	<u>200,000</u>
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Note 5: Non-Financial Assets

	2003	2002
	\$	\$
<u>Note 5A. Land and Buildings</u>		
<i>Leasehold improvements</i>		
Leasehold improvements – at 2001-2003 valuation	-	342,433
Accumulated amortisation	-	<u>0320,520</u>
	-	<u>0021,913</u>
Leasehold improvements – at 2003 valuation	248,461	-
Accumulated amortisation	<u>119,164</u>	-
	<u>129,297</u>	-
<i>Total leasehold improvements</i>	<u>129,297</u>	<u>21,913</u>
<i>Total Land and Buildings (non-current</i>	<u>129,297</u>	<u>21,913</u>

Note 5B. Infrastructure, plant and equipment*Plant and Equipment*

Plant and Equipment - at 2001-2003 valuation	-	331,893
Accumulated Depreciation	-	<u>208,720</u>
	-	<u>123,173</u>
Plant and Equipment - at 2003 valuation	335,517	-
Accumulated Depreciation	<u>247,614</u>	-
	<u>087,903</u>	-
<i>Total Plant and Equipment</i>	<u>87,903</u>	<u>123,173</u>
<i>Total Infrastructure, plant and equipment</i>	<u>87,903</u>	<u>123,173</u>

Note 5C - Analysis of Property, Plant and Equipment

TABLE A – Reconciliation of the opening and closing balances of property, plant and equipment at valuation.

	Land and Buildings	Plant and Equipment	Total
	\$	\$	\$
Gross value as at 1 July 2002	342,433	331,893	674,326
Accumulated depreciation/ amortisation	<u>320,520</u>	<u>208,720</u>	<u>529,240</u>
Net Book Value	21,913	123,173	145,086
Additions – purchases of assets	125,539	3,622	129,161
Depreciation/ amortisation	(18,155)	(38,892)	(57,047)
Gross Book Value as at 30 June 2003	248,461	335,515	583,976
Accumulated depreciation/ amortisation	<u>119,164</u>	<u>247,612</u>	<u>366,776</u>
Net book value as at 30 June 2003	<u>129,297</u>	<u>87,903</u>	<u>217,200</u>

TABLE B – Reconciliation of the opening and closing balances of land and buildings at valuation.

Gross value as at 1 July 2002		342,433
Accumulated amortisation		<u>320,520</u>
Net Book Value		21,913
Additions – leasehold improvements capitalised		125,539
Disposals – gross value of leasehold improvements		(219,511)
– accumulated amortisation of leasehold improvements		219,511
Amortisation for the year		(18,155)
Gross Book Value as at 30 June 2003		248,461
Accumulated amortisation		<u>119,164</u>
Net book value as at 30 June 2003		<u>129,297</u>
	2003	2002
	\$	\$

Note 5D. Other Non – Financial Assets

Prepayments	<u>5,612</u>	<u>18,643</u>
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	2003	2002
	\$	\$
Note 6 : Provisions		
<u>Note 6A – Employee Provisions</u>		
Salaries and wages	41,804	45,048
Leave	<u>373,808</u>	<u>598,700</u>
<i>Aggregate employee entitlement liability</i>	<u>415,612</u>	<u>643,748</u>
Current	41,804	45,048
Non-current	<u>373,808</u>	<u>598,700</u>
	<u>415,612</u>	<u>643,748</u>

Note 7 : PayablesNote 7A – Supplier Payables

Trade creditors	<u>192,351</u>	<u>168,553</u>
<i>Total supplier payables</i>	<u>192,351</u>	<u>163,553</u>

All supplier payables are current.

Note 8 : EquityNote 8A – Analysis of Equity

Item	Accumulated Results	
Opening balance as at 1 July	(195,707)	(277,144)
Net Surplus/(Deficit)	356,090	81,437
Return on Capital	<u>(16,000)</u>	-
Closing balance as at 30 June	<u>144,383</u>	<u>(195,707)</u>
<i>Total equity attributable to the Commonwealth</i>	<u>144,383</u>	<u>(195,707)</u>

	2003	2002
	\$	\$

Note 9 : Cash Flow Reconciliation**Note 9A: Reconciliation of cash per Statement of Financial Position to Statement of Cash Flows**

• Cash at year end per Statement of Cash Flows	449,902	410,575
• Statement of Financial Position items comprising above cash : 'Financial Asset – Cash'.	499,902	410,575
Reconciliation of net surplus to net cash provided by operating activities:		
Net Surplus / (Deficit)	356,090	81,437
Depreciation/ Amortisation	57,047	58,560
Gains on disposals of assets	-	(2,600)
Changes in Assets and Liabilities		
(Increase)/decrease in receivables	(37,342)	171,708
(Increase)/decrease in prepayments	13,031	(18,643)
Increase/(decrease) in employee provisions	(228,136)	124,259
Increase/(decrease) in suppliers payables	<u>23,798</u>	<u>(178,126)</u>
<i>Net cash from operating activities</i>	<u>184,488</u>	<u>236,595</u>

Note 9B: Reconciliation of Cash

Cash balance comprises:

Cash at bank	449,402	210,075
Cash on hand	<u>500</u>	<u>500</u>
<i>Total cash</i>	<u>449,902</u>	<u>210,575</u>

Balance of cash as at 30 June shown
in the Statement of Cash Flows

<u>449,902</u>	<u>210,575</u>
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Note 10 : Executive Remuneration

The number of Executives who received or were due to receive total remuneration of \$100,000 or more:

	2003	2002
	Number	Number
\$100,000 to \$109,999	1	-
\$110,000 to \$119,999	1	-
\$120,000 to \$129,999	-	-
\$130,000 to \$139,999	-	2
\$140,000 to \$149,999	1	-
\$150,000 to \$159,999	1	-
\$160,000 to \$169,999	-	1

The aggregate amount of total remuneration of executives shown above

\$515,000	\$420,000
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The aggregate amount of separation and Redundancy/termination payments during the year to executives shown above.

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Note 11 : Councillors Remuneration

The Councillors of the Council during the year were:

President : Graeme Samuel
 Councillors : David Crawford
 Robert Fitzgerald
 Wendy Craik
 Doug McTaggart

The number of Councillors of the Council who received or were due to receive remuneration are shown in the following bands :

	2003	2002
	Number	Number
\$20,000 to \$29,999	4	4
\$30,000 to \$39,999	-	-
\$40,000 to \$49,999	-	-
\$50,000 to \$59,999	-	-
\$60,000 to \$69,999	-	-
\$70,000 to \$79,999	-	-
\$80,000 to \$89,999	-	-
\$90,000 to \$99,999	-	-
\$100,000 to \$109,999	-	-
\$110,000 to \$119,999	-	1
\$120,000 to \$129,999	1	-
 The aggregate amount of total remuneration of Councillors shown above	 \$224,438	 \$213,829

Note 12 : Remuneration of Auditors

Financial statement audit services are provided free of charge to the Council. The fair value of the services provided was \$19,000 (2002 \$19,100).

No other services were provided by the Auditor-General.

Note 13 : Average Staffing Levels

	2003	2002
	Number	Number
The average staffing levels for the Council during the year were:	19.0	20.0

Note 14 : Financial InstrumentsNote 14A - Terms, conditions and accounting policies

Financial Instruments	Notes	Accounting Policies and Methods (including recognition criteria and measurement basis).	Nature of underlying Instrument (including significant terms and conditions affecting the amount, timing and certainty of cash flows).
FINANCIAL ASSETS		Financial assets are recognised when control over future economic benefits is established and the amount of the benefit can be reliably measured.	
Cash	4A	Cash is recognised at its nominal amounts. Interest on cash at bank is credited to revenue as it accrues.	The department invests funds with the Reserve bank at call. Rates have averaged 2% for the year. Interest is paid monthly.
Receivables for goods and services	4B	These receivables are recognised at the nominal amounts due less any provision for bad and doubtful debts. Collectability of debts is reviewed at balance date. Provisions are made when collection of the debt is judged to be less rather than more likely.	All receivables are with the Commonwealth and /or other external entities. Credit terms are net 30 days (2002: 30 days).
Term Deposits	4C	Term deposits are recognised at cost. Interest is accrued as it is earned.	No term deposits are currently held by the Council.
FINANCIAL LIABILITIES		Financial liabilities are recognised when a present obligation to another party is entered into and the amount of the liability can be reliably measured.	
Trade Creditors	7A	Creditors and accruals are recognised at their nominal amounts, being the amounts at which the liabilities will be settled. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).	All creditors are entities that are not part of the Commonwealth legal entity. Settlement is usually made net 30 days.

Note 14 : Financial Instruments (cont.)Note 14B – Interest Rate Risk

Financial Instrument	Note	Non – Interest Bearing		Weighted Effective Rate	Average Interest Rate
		2003	2002	2003	2002
Financial Assets		\$	\$	%	%
Cash at Bank	4A	449,902	210,575	2.0	2.0
Receivables for goods and services	4B	79,632	42,290	n/a	n/a
Total Financial Assets		529,534	452,865		
Total Assets		752,346	616,594		
Financial Liabilities					
Trade Creditors	7A	192,351	168,553	n/a	n/a
Total Financial Liabilities (Recognised)		192,351	168,553		
Total Liabilities		607,963	812,301		

Note 14C-Net Fair Values of Financial Assets and Liabilities

	Note	2003 Total carrying Amount	2003 Aggregate net Fair value	2002 Total carrying Amount	2002 Aggregate net fair value
Financial Assets					
Cash at Bank	4A	449,902	449,902	210,575	210,575
Receivables for Goods and Services	4B	79,632	79,632	42,290	42,290
Term Deposits	4C	-	-	200,000	200,000
Total Financial Assets		<u>529,534</u>	<u>529,534</u>	<u>452,865</u>	<u>452,865</u>
Financial Liabilities (recognised)					
Trade Creditors	7A	192,351	192,351	168,553	168,553
Total Financial Liabilities (recognised)		<u>192,351</u>	<u>192,351</u>	<u>168,553</u>	<u>168,553</u>

Financial Assets

The net fair values of cash and non-interest-bearing monetary financial assets approximate their carrying amounts.

Financial Liabilities

The net fair values for trade creditors are approximated by their carrying amounts.

Note 14D - Credit Risk Exposures

The Council's maximum exposures to credit risk at reporting date in relation to each class of recognised financial assets is the carrying amount of those assets as indicated in the Statement of Financial Position.

The Council has no significant exposures to any concentrations of credit risk.

Note 15 : Related Party Transactions

There were no related party transactions during the year.

Note 16 : Appropriations

	Departmental Outputs	Total
Year ended 30 June 2003	\$	\$
Balance carried forward from previous year	436,865	436,865
Appropriation for reporting period (Act 1)	3,604,000	3,604,000
GST Credits	173,768	173,768
Annotations to 'net appropriations'	<u>162,600</u>	<u>162,600</u>
Available for payments	<u>4,377,233</u>	<u>4,377,233</u>
Payments made	<u>3,884,817</u>	<u>3,884,817</u>
Balance carried to next year	<u>492,416</u>	<u>492,416</u>
Year ended 30 June 2002		
Balance carried forward from previous year	449,463	449,463
Appropriation Reporting Period (Act 1)	3,506,901	3,506,901
GST Credits	147,981	147,981
Annotations to 'net appropriations'	<u>116,071</u>	<u>116,071</u>
Available for payments	<u>4,220,416</u>	<u>4,220,416</u>
Payments made	<u>3,783,551</u>	<u>3,783,551</u>
Balance carried to next year	<u>436,865</u>	<u>436,865</u>

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