



**Australian Government**

# 2016-17 Heads of Treasuries Competitive Neutrality Matrix

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## SUMMARY

- The Competitive Neutrality Matrix Reports contain each jurisdiction’s assessment of how well their government business enterprises (GBEs) have complied with the principles of competitive neutrality (CN). Specifically, CN compliance assessments are made against 16 criteria derived from the 1995 *Competition Principles Agreement* (CPA) and the 2006 *Competition and Infrastructure Regulation Agreement* (CIRA).
- While the 1995 CPA applied to ‘significant GBEs’ and to the activities of other agencies that undertake ‘significant business activities’, the 2006 CIRA aimed to ‘enhance the application of competitive neutrality principles to government business enterprises engaged in significant business activities in competition with the private sector’. Reflecting the CIRA’s focus on GBEs, most CN Matrix Reports restrict their assessments to GBEs and do not provide assessments for other agencies that are also engaged in significant business activities.
- The 2016-17 Report provides assessments for a total of 96 entities (see table). While most jurisdictions (NSW, Victoria, Queensland, South Australia and Tasmania) reported on 8-15 entities, WA reported on 26 GBEs (including 5 that have not yet been formally assessed as subject to competitive neutrality) while the Commonwealth, Northern Territory and the ACT reported on seven or less. These entities were responsible for, amongst other things, ports, rail tracks, motorways, energy, water, housing, communications and forestry.

Jurisdiction	Entities	Notes
Commonwealth	7	The Commonwealth’s CN Policy also applies to significant business activities of non-GBEs but they are not included in this report.
NSW	15	Four agencies (Ausgrid, Endeavour Energy, Essential Energy and Delta Electricity) previously treated as a single entity for reporting purposes have been individually reported. Of the 15 entities, 8 are State-Owned Companies (SOCs).
Victoria	8	Victoria has 32 GBEs that are outside scope because: they are not significant (1 GBE); or they do not face competition (31 GBEs).
Queensland	11	
Western Australia	26	WA’s report includes 5 GBEs that have not yet been formally assessed as subject to CN.
South Australia	10	
Tasmania	13	
ACT	2	
Northern Territory	4	One GBE is outside scope because it is a central borrowing authority. Four Government Business Divisions are subject to the Northern Territory’s CN Policy but are not included in this report.
<b>Total</b>	<b>96</b>	

## COMPETITIVE NEUTRALITY ASSESSMENT CRITERIA

Criterion	Details	Source
Subject to competitive neutrality?	The CPA applies to 'significant GBEs' and the activities of other agencies that undertake 'significant business activities' (clauses 3.4 and 3.5). The CIRA applies to GBEs 'engaged in significant business activities in competition with the private sector' (clause 6.1) where GBEs are 'enterprises that are incorporated under ... legislation and are classified as Public Financial Corporations or Public Non-Financial Corporations, excluding central borrowing authorities, under the Government Financial Statistics Classifications' (clause 1.4).	CPA 3.4 and 3.5  CIRA 1.4 and 6.1
Tax neutrality	Impose taxes or tax equivalent systems in full	CPA 3.4(b)(i)
Debt neutrality	Impose debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees	CPA 3.4(b)(ii)
Regulatory neutrality	Impose regulations on an equivalent basis to private sector competitors	CPA 3.4(b)(iii)
Commercial objectives	The GBE has clear commercial objectives	CIRA 6.1(a)
Non-commercial objectives	Any non-commercial objectives or obligations are specified and publicly reported	CIRA 6.1(b))
Regulatory functions	The GBE does not exercise regulatory or planning approval functions where it is in competition with private sector	CIRA 6.1(c)
Governing board responsibilities	The responsibilities of the governing board are published	CIRA 6.1(d)
Governing board performance measures	The performance measures against which the board is held accountable are published	CIRA 6.1(d)
Appointment of governing board	The governing board is appointed on basis of particular skills needed by board	CIRA 6.1(e)
Operational autonomy	The GBE has operational autonomy in day to day management of affairs	CIRA 6.1(f)
Dividend policy	The dividend policy applicable to the GBE is clearly and publicly specified	CIRA 6.1(g)
Payments to government	All payments to government as shareholder or for purposes of CN are identified in a transparent manner	CIRA 6.1(h)
Annual performance reporting	Annual public report on commercial performance and performance of any non-commercial activities	CIRA 6.1(i)
Government directions	Any directions given to enterprise by the government are published	CIRA 6.1(j)
Legislative derogation from CN	Where the legislation establishing an enterprise derogates from CN, the derogation has been published	CIRA 6.1(k)

Note: In each matrix report, 'Yes'/'No' signifies that the GBE is compliant/non-compliant with that criterion. For example, a GBE is compliant with the 'regulatory functions' criterion if it does **not** exercise any relevant regulatory or planning approval functions. Furthermore, a GBE may be compliant for various reasons. For example, it may be compliant with tax neutrality because it does not have any special tax exemptions or because it does have such exemptions but pays corresponding tax neutrality payments.

## BACKGROUND TO COMPETITIVE NEUTRALITY IN AUSTRALIA

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As part of the 1995 *Competition Principles Agreement (CPA)*, Commonwealth, State and Territory governments agreed that:

*The objective of competitive neutrality policy is the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities: Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership. (CPA 3.3(a))*

This objective was supported by a series of CN principles that applied to all 'significant Government business enterprises' (GBEs) and, where appropriate, to other agencies that undertake 'significant business activities' (CPA 3.5(a)). In summary, these principles are:

- Corporatisation (significant GBEs only): the Parties will, where appropriate, adopt a corporatisation model for significant Government business enterprises (CPA 3.4(a));
- Tax neutrality: impose taxes or tax equivalent systems in full (CPA 3.4(b)(i));
- Debt neutrality: impose debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees (CPA 3.4(b)(ii));
- Regulatory neutrality: impose regulations on an equivalent basis to private sector competitors (CPA 3.4(b)(iii)); and
- Cost-reflective pricing (non-GBEs only): ensure that prices charged for goods and services reflect full cost attribution for these activities (CPA 3.5(b)).

These principles only apply to the extent that the benefits to be realised from their implementation outweighed the costs (CPA 3.6; CPA 1.3 also provides guidance on the range of factors to be considered in assessing costs and benefits).

Each jurisdiction subsequently published a CN policy statement with an implementation timetable and a complaints mechanism. They also committed to publish an annual report on the implementation of the CN principles. Until the mid-2000s, CN compliance reporting was incorporated within the National Competition Policy (NCP) Annual Reports that were submitted to the National Competition Council (NCC). The NCC then drew on these reports to prepare an annual NCP assessment, including an assessment of CN compliance.<sup>1</sup>

In November 2000, the Council of Australian Governments (COAG) clarified some practical issues involved in implementing the competitive neutrality principles set out in clause 3 of the CPA and agreed that governments could have regard to the following factors.<sup>2</sup>

- GBEs not subject to executive control: Where a government business is not subject to the executive control of a government (for example, a university), a 'best endeavours' approach could be adopted. This would require, at a minimum, that governments provide a transparent statement of competitive neutrality obligations to the business.

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1 Each Government's NCP Annual Reports and the NCC's NCP assessments are available on the NCP website: [www.ncp.ncc.gov.au](http://www.ncp.ncc.gov.au).

2 See NCC 2002, *Assessment of governments' progress in implementing the National Competition Policy and related reforms*, National Competition Council, p2.17 <http://ncp.ncc.gov.au/docs/2002%20assessment.pdf>.

## Competitive Neutrality Matrix

- Community service obligations (CSOs): Governments are not required to undertake a competitive process for the delivery of CSOs, and are free to determine who should receive a CSO payment or subsidy, which should be transparent, appropriately costed and directly funded by government.
- Full cost attribution: A range of costing methods, including fully distributed cost, marginal cost and avoidable cost, satisfy the term 'full cost attribution' in subclause 3.5(b).

In the 2006 *Competition and Infrastructure Reform Agreement* (CIRA), all governments agreed to 'enhance the application of competitive neutrality principles to government business enterprises engaged in significant business activities in competition with the private sector'. Accordingly, the following principles only apply to GBEs (and not to other agencies that undertake significant business activities).

- Commercial objectives: The GBE has clear commercial objectives (CIRA 6.1(a))
- Non-commercial objectives (CSOs): Any non-commercial objectives or obligations are specified and publicly reported (CIRA 6.1(b))
- Regulatory functions: The GBE does not exercise regulatory or planning approval functions where it is in competition with private sector (CIRA 6.1(c))
- Governing board responsibilities *and* governing board performance measures: The responsibilities of the governing board and the performance measures against which the board is held accountable are published (CIRA 6.1(d))
- Appointment of governing board: The governing board is appointed on basis of particular skills needed by board (CIRA 6.1(e))
- Operational autonomy: The GBE has operational autonomy in day to day management of affairs (CIRA 6.1(f))
- Dividend policy: The dividend policy applicable to the GBE is clearly and publicly specified (CIRA 6.1(g))
- Payments to government: All payments to government as shareholder or for purposes of CN are identified in a transparent manner (CIRA 6.1(h))
- Annual performance reporting: Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))
- Government directions: Any directions given to enterprise by the government are published (CIRA 6.1(j))
- Legislative derogation from CN: Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))

COAG's *National Competition Policy Review*, which was released on 10 February 2006 and provided the foundation for the 2006 CIRA, stated that the enhanced competitive neutrality principles would be monitored by Heads of Treasuries (HoTs). Since then, HoTs has received Competitive Neutrality Matrix Reports annually. The latest reports (from 2011-12 onwards) are published on the Council of Federal Financial Relations website: [www.federalfinancialrelations.gov.au/content/performance-reporting.aspx](http://www.federalfinancialrelations.gov.au/content/performance-reporting.aspx).



In December 2016, six jurisdictions signed the *Intergovernmental Agreement on Competition and Productivity-Enhancing Reforms* and, in doing so, agreed to be guided by eight competition principles (subject to a public interest test). These principles included the following re-commitment to competitive neutrality:

*Government business activities that compete with private providers, whether for-profit or not-for-profit, should comply with competitive neutrality principles to ensure they do not enjoy a net competitive advantage simply as a result of government ownership.  
(IGA CPR 9f)*

Appendix A of the IGA CPR states that each Party should review their competitive neutrality policies so that they continue to fulfil this objective. These reviews should consider: the coverage of CN policies, the application of CN to new government businesses, CN compliance reporting, and CN complaints processes.

## COMMONWEALTH COMPETITIVE NEUTRALITY MATRIX 2016-17

Assessment criteria	ASC Pty Ltd	Australia Post	Australian Naval Infrastructure Pty Ltd <sup>1</sup>	Australian Rail Track Corporation Ltd	Defence Housing Australia	Moorebank Intermodal Company Ltd	NBN Co Ltd
Subject to CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tax neutrality <sup>2</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Debt neutrality <sup>3</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial objectives	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Non-commercial objectives <sup>4</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory functions	Yes	Yes	Yes	Yes	Yes	Yes <sup>12</sup>	Yes
Governing board responsibilities <sup>5</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board performance measures <sup>6</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board appointment	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Operational autonomy	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dividend policy <sup>7</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Payments to government <sup>8</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Annual performance reporting <sup>9</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Government directions <sup>10</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Legislative derogations from CN <sup>11</sup>	N/A	N/A	N/A	N/A	N/A	N/A	N/A

## Commonwealth's CN matrix – explanatory notes

1. The Australian Naval Infrastructure Pty Ltd (ANI) was established on 26 March 2017 and is still establishing its reporting framework so the competitive neutrality assessment criteria is not applicable at this stage. Once fully established, ANI is expected to report in accordance with competitive neutrality assessment criteria, as per the table above.
2. *Tax neutrality*: DHA is exempt from State and Territory taxation but must make tax equivalent payments to the Commonwealth, in accordance with section 63A of the DHA Act.
3. *Debt neutrality*: Australia Post does not pay any debt neutrality fees in light of its Government ownership, however significant costs are imposed on the entity through its letters Community Service Obligations (CSO). DHA has an unsecured borrowing facility with the Department of Finance. The facility affords DHA the flexibility to borrow at fixed or floating interest rates, including at market rates, which includes a competitive neutrality charge. The Australian Rail Track Corporation's (ARTC's) borrowings are via external bank debt and bonds.
4. *Non-commercial Objectives*: For each GBE, non-commercial objectives are disclosed in their public Corporate Plan (Statement of Corporate Intent) available on their website.
5. *Governing Board Responsibilities*: GBE Board responsibilities are outlined in Part 2 of the Resource Management Guide 126: Commonwealth Government Business Enterprises – Governance and Oversight Guidelines (the GBE Guidelines). For Australia Post, further details are specified in its enabling legislation, the *Australian Postal Corporation Act 1989*. The functions of the Defence Housing Australia (DHA) Board are also outlined in section 11B of the *Defence Housing Australia Act 1987 (Cth)* (DHA Act).
6. *Governing Board Performance Measures*: Part 3 of the GBE Guidelines requires broad financial and non-financial performance measures to be reported in the Statement of Corporate Intent. Further requirements are outlined in the *Public Governance, Performance and Accountability Act 2013* and the associated *Public Governance, Performance and Accountability Rule 2014*.
7. *Dividend Policy*: The dividend policy is outlined in Part 4 of the GBE Guidelines.
8. *Payments to Government*: Payments to government are required under Section 6.1 of the 2004 CN Guidelines for Managers.
9. *Annual Performance Reporting*: Refer to the 2016-17 Annual Report for the relevant entity.
10. *Government Directions*: Part 1 of the GBE Guidelines requires government policy orders specifying the application of a policy to a GBE to be made in writing and placed on the Federal Register of Legislative Instruments. Other directions for specific GBEs may also include orders, guidance materials, memorandums of understanding and agreements.
11. *Legislative Derogations from CN*: This is not applicable to any Commonwealth GBE. Enabling legislation only exists for Australia Post and DHA; there are no derogations from CN in the enabling legislation for those GBEs.
12. MIC's role is to monitor the performance of the terminal operator (Sydney Intermodal Terminal Alliance) under a contractually-enforceable open access regime and to impose consequences for non-compliance, which is not considered to be a regulatory approval function.

## Commonwealth's CN matrix – discussion

The Commonwealth's competitive neutrality policy applies to all Government Business Enterprises (GBEs) and, in addition, any other 'significant business activities'. An agency is conducting a business activity if: there is user-charging for the goods or services, there are actual or potential competitors, and managers of the activity have some autonomy in the price and supply of the goods or services. A business activity is 'significant' if it is undertaken by a GBE, 'Commonwealth company' or 'business unit' or if it has a commercial turnover of at least \$10 million per year.

The Commonwealth's CN matrix report is restricted to its GBEs, of which there were seven in 2016-17:

- ASC Pty Ltd (formerly the Australian Submarine Corporation) is a naval shipbuilding company responsible for the Collins-class submarine fleet and the construction of three Hobart-class destroyers, both for the Royal Australian Navy. ASC was also recently announced as the builder of two Offshore Patrol Vessels.
- Australia Post (AusPost) provides postal, retail, financial and travel services.
- Australian Naval Infrastructure Pty Ltd (ANI) is a naval infrastructure company established to hold, manage and upgrade shipbuilding and related infrastructure assets in support of the continuous build programs for major surface warships and minor surface combatants, as outlined in the Naval Shipbuilding Plan.
- Australian Rail Track Corporation Ltd (ARTC) manages most of Australia's interstate rail network across five states. It is also responsible for the delivery of Inland Rail (a planned freight network between Brisbane and Melbourne via Parkes).
- Defence Housing Australia (DHA) provides housing and related services to members of the Australian Defence Force and their families.
- NBN Co Ltd was established to design, build and operate Australia's first national high-speed wholesale and local access broadband network.
- Moorebank Intermodal Company Ltd (MIC) oversees the development of the Moorebank intermodal freight precinct located in south-west Sydney.

WSA Co Ltd was established on 7 August 2017 to design and build Western Sydney Airport. The Commonwealth has not reported on this GBE as its establishment falls outside of the 2016-17 reporting period.

## NEW SOUTH WALES COMPETITIVE NEUTRALITY MATRIX 2016-17

Assessment criteria	Ausgrid	Endeavour Energy	Delta Electricity	Essential Energy	Hunter Water	Sydney Water	Water NSW
Subject to CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tax neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Debt neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial objectives <sup>3</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Non-commercial objectives <sup>4</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory functions	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board responsibilities <sup>5</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board performance measures <sup>6</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board appointment <sup>7</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Operational autonomy	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dividend policy <sup>8</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Payments to government <sup>9</sup>	Yes <sup>9</sup>	Yes <sup>9</sup>	Yes <sup>9</sup>	Yes <sup>9</sup>	Yes <sup>9</sup>	Yes <sup>9</sup>	Yes <sup>9</sup>
Annual performance reporting <sup>10</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Government directions	Yes <sup>11</sup>	Yes <sup>11</sup>	Yes <sup>11</sup>	Yes <sup>11</sup>	Yes <sup>11</sup>	Yes <sup>11</sup>	Yes <sup>11</sup>
Legislative derogations from CN <sup>12</sup>	N/A	N/A	Yes	N/A	N/A	N/A	N/A

## Competitive Neutrality Matrix

Assessment criteria	Forestry Corp	Insurance and Care NSW	Landcom	Newcastle Port (Port Authority of NSW)	Sydney Cricket and Sports Ground Trust	Sydney Opera House Trust	Venues NSW	Sydney Motorway Corporation
Subject to CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tax neutrality	Yes	No <sup>1</sup>	Yes	Yes	Yes <sup>1</sup>	Yes <sup>1</sup>	Yes	No <sup>1</sup>
Debt neutrality	Yes	N/A <sup>2</sup>	Yes	Yes	Yes <sup>2</sup>	Yes	Yes	Yes <sup>2</sup>
Regulatory neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial objectives <sup>3</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Non-commercial objectives <sup>4</sup>	Yes	N/A	Yes	Yes	Yes	Yes	Yes	N/A
Regulatory functions	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board responsibilities <sup>5</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board performance measures <sup>6</sup>	Yes <sup>6</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes <sup>6</sup>
Governing board appointment <sup>7</sup>	Yes	Yes	Yes	Yes	No	Yes	No	Yes
Operational autonomy	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dividend policy <sup>8</sup>	Yes	N/A	Yes	Yes	N/A	N/A	Yes	No <sup>8</sup>
Payments to government <sup>9</sup>	Yes <sup>9</sup>	Yes <sup>9</sup>	Yes <sup>9</sup>	Yes <sup>9</sup>	N/A	N/A	Yes <sup>9</sup>	Yes <sup>9</sup>
Annual performance reporting <sup>10</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Government directions	Yes <sup>11</sup>	Yes	Yes <sup>11</sup>	Yes <sup>11</sup>	Yes	Yes	Yes	Yes
Legislative derogations from CN <sup>12</sup>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

## NSW's CN matrix – explanatory notes

1. *Tax neutrality:* SCSGT, SOHT and Insurance and Care NSW are not-for-profit entities. Sydney Motorway is non-compliant because it is not required to make tax equivalent payments.
2. *Debt neutrality:* Sydney Motorway SMC has project debt from Australian and international lenders, as well as a subordinated Commonwealth Loan. This debt is not guaranteed by the State. The SCSGT sought a Government Guarantee Fee Exemption from the Treasurer in 2014 on the basis that they operate as a not-for-profit entity. The exemption was granted subject to the Trust, which utilises the notional guarantee fee to retire debt each financial year. Insurance and Care does not carry debt.
3. *Commercial objectives:* The eight State Owned Corporations (SOCs) have commercial objectives that are clearly specified in the *State-Owned Corporations Act 1989* (SOC Act) and/or their individual enabling legislation, for example, *Energy Services Corporations Act 1995*. All SOCs in this matrix have a legislated objective to be a successful business and, to this end: to operate at least as efficiently as any comparable businesses; and to maximise the net worth of the State's investment in it. For the five non-SOC bodies (that is, SCSGT, SOHT, Venues NSW, Sydney Motorway, and Insurance and care NSW), their commercial and non-commercial objectives are specified in Statements of Business Intent (which are not publicly available) and in Annual Reports.
4. *Non-commercial objectives:* Where any of the eight the SOCs have non-commercial objectives, they are specified in the SOC Act and/or their enabling legislation. For example, most SOCs have legislated objectives to:
  - protect the environment by conducting their operations in compliance with the principles of ecologically sustainable development contained in the *Protection of the Environment Administration Act 1991*, and
  - exhibit a sense of responsibility towards regional development and decentralisation in the way in which they operate.

Non-commercial obligations are also specified in the SOC's Statement of Corporate Intent (SCI), which is tabled in Parliament. For three of the non-SOC bodies (SCSGT, SOHT and Venues NSW), their commercial and non-commercial objectives are specified in Statements of Business Intent (which are not publicly available) and in Annual Reports. Finally, Sydney Motorway does not have any non-commercial objectives.
5. *Governing board responsibilities:* Director's duties are published in the SOC Act. Requirements of *Corporations Act 2001* (Cth) apply to Green State Power directors, and the directors of Sydney Motorway Corporation. Members of the SCSGT are governed by the *Sydney Cricket and Sports Ground Act 1978*; members of the SOHT are governed by the *Sydney Opera House Trust Act 1961*; and Venues NSW as provided in the *Sporting Venues Authorities Act 2008*. Directors of Insurance and Care NSW are governed by the *State Insurance and care Governance Act 2015*.
6. *Governing board performance measures:* All SOCs have a Statement of Corporate Intent, which is an annual agreement between the Board and its shareholders. It represents the performance measures against which the Board is accountable to the shareholders. SCIs are tabled in Parliament.
  - Sydney Motorway's Statement of Business Intent contains performance benchmarks for which the Board is accountable to its shareholders, although this is not published.
  - Insurance and Care NSW's performance benchmarks are specified in Statements of Business Intent, although benchmarks are not explicitly applied to governing boards,
  - For the SCSGT and Venues NSW, performance benchmarks are specified in Statements of Business Intent, although benchmarks are not explicitly applied to governing boards. Statements of Business Intent are not publicly available.

## Competitive Neutrality Matrix

- Sydney Opera House Trustees have a Trustee Code of Conduct, which includes seven core performance requirements. The Trustee Code of Conduct is reviewed and individually signed by Trustees on an annual basis.
7. *Governing board appointments:* SCSGT and Venues NSW do not have formal requirements to appoint board members on the basis of required skills, but in practice appointments do reflect the skills needed.
  8. *Dividend policy:* For the SOCs and Venues NSW, see TPP14-04 Financial Distribution Policy for Government Businesses. The other four (SCSGT, SOHT, Sydney Motorway, and Insurance and care NSW) do not pay dividends: SCSGT, SOHT, and Insurance and care NSW do not pay dividends as they each operate as a not-for-profit. Sydney Motorway Corporation is currently in the construction phase of the WestConnex project, and does not make a profit. All its funds are being reinvested into the WestConnex project.
  9. *Payments to government:* Forecast dividend payments are reported in SCIs. Year-end actual dividend and income tax payments are reported in GBE's Annual Reports. Debt guarantee fees are reported at the aggregate level in Budget Papers, but not at individual business level. Insurance and care NSW makes payments to Government where required through the Net Asset Holding Level Policy. Sydney Motorway Corporation does not make payments to Government as it does not pay dividends presently (during the construction phase of the WestConnex project).
  10. *Annual performance reporting:* GBEs (excluding Sydney Motorway Corporation) are subject to the *Annual Reports (Statutory Bodies) Act 1984* and as such are required to prepare an Annual Report that includes commercial and non-commercial performance issues. Sydney Motorway Corporation is required to submit its annual director's reports and audited financial statements to the Australian Securities and Investment Commission (ASIC), and these reports are published online on the ASIC register.
  11. *Government directions:* For SOCs, Directions given under sections 20O and 20P of the SOC Act are to be published in the gazette and tabled in Parliament. Directions given under section 21 do not need to be published in the gazette but must be tabled in Parliament. Directions given under section 20N do not need to be published in the gazette or tabled in Parliament, but are identified in the Statement of Corporate Intent for the GBE. For the four non-SOCs, there are no directions specified in their Constitution, enabling legislation or other legislation (as applicable).
  12. *Legislative derogations from CN:* The legislation establishing the GBEs does not derogate from competitive neutrality principles.

## NSW's CN matrix – discussion

The 2006 Competition and Infrastructure Reform Agreement (CIRA) enhanced the application of competitive neutrality principles to 'government business enterprises engaged in significant business activities in competition with the private sector'. Neither the CIRA nor the 1995 Competition Principles Agreement formally define the term 'significant' so this is addressed in NSW Treasury's *Policy Statement on the Application of Competitive Neutrality* (2002). This states that an assessment of whether a business activity has a significant impact on a market can only be made on a case-by-case basis. Considerations include:

- the size of the business;
- influence on the market;
- resources commanded; and
- the effect of poor performance.

These criteria have been used in assessing the significance of government businesses for the purposes of the Competitive Neutrality matrix. Similarly, for the purposes of the Competitive Neutrality matrix, government businesses have been assessed as being 'in competition with the private sector' if the business has actual competitors or if it was judged that there was likely potential for competition.



NSW had 15 entities subject to the CN principles in 2015-16, eight of which (that is, all except the SCSGT, SHOT, Venues NSW and Sydney Motorway) are State Owned Corporations (SOCs) that are subject to the *State Owned Corporations Act 1989* (SOC Act).

## VICTORIA COMPETITIVE NEUTRALITY MATRIX 2016-17

Assessment criteria	State Trustees Ltd	Development Vic	Docklands Studios Melb	Fed Square	Vic Interpreting & Translating Service	Victorian Ports Corporation (Melbourne)	South East Water	VicTrack
Subject to CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tax neutrality <sup>1</sup>	Yes	Yes	Exempt <sup>1</sup>	Exempt <sup>1</sup>	Yes <sup>1</sup>	Yes	Yes	Yes
Debt neutrality <sup>2</sup>	Yes <sup>2</sup>	Yes	N/A	Yes <sup>2</sup>	Yes <sup>2</sup>	Yes	Yes	N/A
Regulatory neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial objectives <sup>3</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Non-commercial objectives <sup>4</sup>	No	Yes	N/A	Yes	N/A	Yes	Yes	Yes
Regulatory functions <sup>5</sup>	N/A	Yes	N/A	N/A	Yes	Yes	Yes	Yes
Governing board responsibilities <sup>6</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board performance measures <sup>7</sup>	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Governing board appointment	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Operational autonomy	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dividend policy <sup>8</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Payments to government <sup>9</sup>	Yes	Yes	N/A	N/A	Yes	Yes	Yes	N/A
Annual performance reporting	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Government directions <sup>10</sup>	N/A	Yes	N/A	N/A	N/A	Yes	Yes	Yes
Legislative derogations from CN <sup>11</sup>	N/A	Yes <sup>11</sup>	N/A	N/A	N/A	N/A	N/A	N/A

## Victoria's CN matrix – explanatory notes

### 1. Tax neutrality:

- Development Victoria, PoMC and SEW pay income tax equivalent payments in accordance with the National Tax Equivalent Regime (NTER). VicTrack is also subject to the NTER. State Trustees Ltd (STL) is required under Tax Compliance Framework to observe obligations of the NTER. S88 of the SOE Act also requires STL's compliance with Directions from Treasurer in respect of tax equivalency payments. Payments are detailed in Annual Reports.
- DSM and Fed Square are exempt due to ATO private rulings that their income is exempt from income tax pursuant to S24AM of the *Income Tax Assessment Act 1936* (Cth) as it is considered to be owned 'beneficially' by the State. DSM and Fed Square are not subject to tax under the National Tax Equivalent Regime.
- VITS: does not pay income tax equivalent payments in accordance with the National Tax Equivalent Regime (NTER) as it is deemed to be too small. However, pays dividends based on a benchmark of 65 per cent of Net Profit before Tax (c.f. standard government benchmark of 50% net profit after tax). This increased dividend rate fully compensates for the absence of NTER.

### 2. Debt neutrality: N/A means that the agency currently does not have any debts.

- Development Victoria, SEW and PoMC pay the Financial Accommodation Levy in accordance with the relevant legislation (the *Borrowing and Investment Powers Act 1987* for the first two; the *Financial Management Act 1994* for PoMC).
- STL receives a limited government guarantee to the extent that insurance is inadequate and State Trustees assets are insufficient to satisfy liabilities. The Treasurer may require reasonable fee for any guarantee provided. STL is not listed in Schedule 1 of *Borrowing and Investment Powers Act 1987*.
- Fed Square: Debt neutrality does not apply to borrowings relating to the completion of the construction of Federation Square but will apply to any new borrowings.
- VITS: The Governor in Council approved an Order in Council on 15 March 2011 to provide VITS with borrowing powers under the *Borrowing and Investment Powers Act 1987*. This allowed VITS to undertake borrowing through Treasury Corporation of Victoria. However, as VITS' total debt is less than \$5 million, VITS is relieved from paying the Financial Accommodation Levy.

### 3. Commercial objectives: For six entities – STL, = DSM, VITS, Fed Square and VicTrack – commercial objectives are documented in Strategic Plan and/or Corporate Plan that is submitted to the Department of Treasury and Finance (DTF) while for the other three – Development Victoria, PoMC and SEW – commercial objectives are outlined in legislation and annual reports. Further details:

- PoMC's objectives in the *Transport Integration Act 2010* include: managing the Port of Melbourne in an economically sustainable manner and providing cost effective essential services; and having regard to the benefits of increased competition between persons and bodies that provide services related to the operation of the Port of Melbourne
- Fed Square is expected to conduct its activities according to commercially acceptable practices, as published in Fed Square's Corporate Plan.
- Although VicTrack has a custodial role which is non-commercial, it has other activities that have commercial objectives in its core business. These commercial objectives are documented both in legislation – subsection 199(2) of the *Transport Integration Act 2010* – and a Corporate Plan submitted to the DTF.

### 4. Non-commercial objectives: N/A means that the agency is not required to fulfil any non-commercial objectives. The non-commercial objectives of agencies are published in their annual reports, with the exception of Federation Square. Its non-commercial objectives (ie, all the events and programming

conducted at FSPL's expense and free of charge for the public to enjoy) are documented in the Cultural and Civic Charter, which is referred to in the company's Constitution.

- Development Victoria's legislation states that all of its functions are to be carried out on a commercial basis but that the responsible Minister may (with the approval of the Treasurer) direct Development Victoria to undertake certain non-commercial activities for urban renewal projects. These requirements would be disclosed in the Annual Report. Currently there are no such directions.
  - VicTrack's primary object as the custodial owner of State's transport-related assets is specified in Section 119 (1) of the *Transport Integration Act 2010*. Details of VicTrack's custodial (non-commercial) role is published in its annual report.
  - STL: Its CSO Agreement is not publicly reported other than by reference in the Annual Report and is essentially a commercial contract that may be entered into with State Trustees and Department of Health and Human Services.
5. *Regulatory functions*: N/A means that the agency does not exercise any regulatory or planning approval functions.
  6. *Governing board responsibilities*: These responsibilities, including the Director's responsibilities, are published in each agency's annual report. In the case of STL, see specifically the Directors' Report and the Corporate Governance Statement within its annual report.
  7. *Governing board performance measures*: Performance measures are published in each agency's annual report except for DSM. While DSM has a range of performance measures in its corporate plan, performance reporting is not reported in its annual report.
  8. *Dividend policy*: Dividend policies are generally published in annual reports. Places Victoria is required by legislation to pay a dividend as determined by the Treasurer. Similarly, SEW is required by legislation to pay a dividend as determined by the Treasurer in consultation with the portfolio Minister and the Board.
  9. *Payments to government*: This is 'N/A' for three entities – DSM, Fed Square and VicTrack – because they are not currently making any dividend payments: each is currently generating significant accounting losses and are expected to continue to do so due to annual depreciation expenses related to property, plant and equipment.
  10. *Government directions*: N/A means that no directives have been issued. (For DSM and Fed Square, as *Corporations Act 2001* companies, there is no provision for power of direction.) Where directions are given, they are published in the annual report (and/or, in the case of SEW, the government gazette).
  11. *Legislative derogations*: N/A means that establishing legislation does not derogate from CN or that there is no establishing legislation. The legislation for Development Victoria provides for the Governor in Council, on recommendation of Minister, to declare an urban development project. As a result, Development Victoria can exercise particular powers to facilitate development, which exempts declared projects from competitive neutrality requirements. Similarly, Development Victoria has functions conferred by the *Docklands Act 1991* that provide for development in Docklands to also be exempt from CN in some instances.

## Victoria's CN matrix – discussion

In line with the Competition Principles Agreement (CPA), competitive neutrality policy applies only to the significant business activities of publicly owned entities, and not to the non-business non-profit activities of those entities. The CPA does not provide a definition of 'significant business activities'. Victoria's *Competitive Neutrality Policy* states that in assessing significance:

*... relevant considerations include the size of the relevant business activity in relation to the size of the relevant market and its influence or competitive impact in the relevant market. An activity should not be regarded as significant or insignificant solely because of its size relative to the overall size of the public or local government business.<sup>3</sup>*

In 2016-17, Victoria had 38 GBEs of which eight were assessed within scope of competitive neutrality (that is, eight GBEs were assessed to be both 'significant' and subject to actual or potential competition from the private sector). Victoria's assessment of CN coverage is summarised in the table below.

### Victoria: assessment of CN coverage

Agency	GBE	Significant	Competitors	CN applies
Victorian Ports Corporation (Melbourne) <sup>4</sup>	Yes	Yes	No	No
Victorian Rail Track (VicTrack)	Yes	Yes	Yes	Yes
Development Victoria <sup>5</sup>	Yes	Yes	Yes	Yes
Docklands Studios Melbourne	Yes	Yes	Yes	Yes
Fed Square Pty Ltd	Yes	Yes	Yes	Yes
Victorian Interpreting & Translating Service	Yes	Yes	Yes	Yes
South East Water Corp	Yes	Yes	Yes	Yes
State Trustees Ltd	Yes	Yes	Yes	Yes
Victorian Regional Channels Authority	Yes	Yes	No	No
V/Line Passenger Corp	Yes	Yes	No	No
Australian Grand Prix Corp	Yes	Yes	No	No
Energy Safe Victoria	Yes	No	No	No
Barwon Region Water Corp	Yes	Yes	No	No
Central Gippsland Region Water Corp	Yes	Yes	No	No
Central Highlands Region Water Corp	Yes	Yes	No	No
Coliban Region Water Corp	Yes	Yes	No	No
East Gippsland Region Water Corp	Yes	Yes	No	No
Gippsland & Southern Rural Water Corp	Yes	Yes	No	No

<sup>3</sup> Competitive Neutrality Policy (Sept 2012, p3): <http://www.dtf.vic.gov.au/Publications/Victoria-Economy-publications/Competitive-neutrality-policy>.

<sup>4</sup> The long term lease of the former Port of Melbourne was finalised on 31 October 2016.

<sup>5</sup> Known as Places Victoria prior to 1 April 2017.

## Victoria: assessment of CN coverage (continued)

Agency	GBE	Significant	Competitors	CN applies
Goulburn-Murray Rural Water Corp	Yes	Yes	No	No
Goulburn Valley Region Water Corp	Yes	Yes	No	No
Grampians Wimmera-Mallee Water Corp	Yes	Yes	No	No
Lower Murray Urban & Rural Water Corp	Yes	Yes	No	No
North East Region Water Corp	Yes	Yes	No	No
South Gippsland Region Water Corp	Yes	Yes	No	No
Western Region Water Corp	Yes	Yes	No	No
Westernport Region Water Corp	Yes	Yes	No	No
Wannon Region Water Corp	Yes	Yes	No	No
Melbourne Water Corp	Yes	Yes	No	No
City West Water Corp	Yes	Yes	No	No
Yarra Valley Water Corp	Yes	Yes	No	No
State Electricity Commission of Victoria	Yes	Yes	No	No
Victorian Plantations Corp	Yes	No	No	No
VicForests	Yes	Yes	No	No
Transport Accident Commission	Yes	Yes	No	No
Victorian WorkCover Authority	Yes	Yes	No	No
Victorian Managed Insurance Authority	Yes	Yes	No	No
Treasury Corporation of Victoria	Yes	Yes	No	No
Victorian Funds Management Corp	Yes	Yes	No	No

## QUEENSLAND COMPETITIVE NEUTRALITY MATRIX 2016-17

Assessment criteria	Ports North*	Gladstone Ports	Nth Old Bulk Ports	Port of Townsville	Old Rail	SunWater	SEQ Water	CS Energy	Stanwell Corp	Energy Queensland	Powerlink Qld#
Subject to CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tax neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Debt neutrality	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Regulatory neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial objectives	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Non-commercial objectives	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory functions	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes	Yes	Yes	Yes
Governing board responsibilities	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board performance measures	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board appointment	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Operational autonomy	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dividend policy	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Payments to government	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Annual performance reporting	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Government directions	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Legislative derogations from CN	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

\* Ports North = includes all ports north from Mourilyan with the exception of Weipa.

# Powerlink Queensland is also known as Queensland Electricity Transmission Corporation Limited.

## Queensland's CN matrix – explanatory notes

*Debt neutrality* (SEQ Water): in line with Government's decision to accept only a cost-of-debt return on all SEQ Water assets as a measure to moderate bulk water prices, the application of the debt neutrality charge was discontinued with effect from 1 January 2013.



## WESTERN AUSTRALIA COMPETITIVE NEUTRALITY MATRIX 2016-17

### Part 1: Public non-financial corporations (PNFCs)

Assessment criteria	Animal Resources Authority	Bunbury Water	Busselton Water	Electricity Generation & Retail Corp (Synergy)	Electricity Networks Corp (Western Power)	Forest Products Corp	Fremantle Port	Gold Corp	Kimberley Ports
Subject to CN	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tax neutrality	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Debt neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial objectives	Yes <sup>3</sup>	Yes	Yes	Yes	Yes	Yes <sup>3</sup>	Yes	Yes	Yes
Non-commercial objectives	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory functions	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board responsibilities	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board performance measures	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board appointment	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Operational autonomy	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dividend policy	N/A <sup>4</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Payments to government	N/A <sup>4</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Annual performance reporting	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Government directions	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Legislative derogations from CN	Yes	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Competitive Neutrality Matrix

Part 1: Public non-financial corporations (PNFCs) (continued)

Assessment criteria	Lotteries Commission (Lotterywest)	Metropolitan Cemeteries Board	Metropolitan Redevelopment Authority	Mid-West Ports	Pilbara Ports	Public Transport Authority	Racing & Wagering WA
Subject to CN	Yes	No	No <sup>1</sup>	Yes	Yes	No	No <sup>1</sup>
Tax neutrality	No <sup>2</sup>	No	No	Yes	Yes	No	Yes <sup>2</sup>
Debt neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory neutrality	Yes	No	No	Yes	Yes	Yes	Yes
Commercial objectives	Yes <sup>3</sup>	Yes <sup>3</sup>	No	Yes	Yes	Yes <sup>3</sup>	Yes <sup>3</sup>
Non-commercial objectives	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory functions	Yes	Yes	No	Yes	Yes	Yes	Yes
Governing board responsibilities	Yes	Yes	Yes	Yes	Yes	N/A <sup>5</sup>	Yes
Governing board performance measures	Yes	Yes	Yes	Yes	Yes	N/A <sup>5</sup>	Yes
Governing board appointment	Yes	No	Yes	Yes	Yes	N/A <sup>5</sup>	Yes
Operational autonomy	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dividend policy	N/A <sup>4</sup>	N/A <sup>4</sup>	N/A <sup>4</sup>	Yes	Yes	N/A <sup>4</sup>	N/A <sup>4</sup>
Payments to government	N/A <sup>4</sup>	N/A <sup>4</sup>	N/A <sup>4</sup>	Yes	Yes	N/A <sup>4</sup>	N/A <sup>4</sup>
Annual performance reporting	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Government directions	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Legislative derogations from CN	Yes	Yes	Yes	N/A	N/A	Yes	Yes

## Part 1: Public non-financial corporations (PNFCs) (continued)

Assessment criteria	Regional Power Corp (Horizon Power)	Rottnest Island Authority	Southern Ports	State Housing Authority	Water Corp	WA Land Authority (Landcorp)
Subject to CN	Yes	Yes	Yes	No <sup>1</sup>	Yes	Yes
Tax neutrality	Yes	No <sup>2</sup>	Yes	No	Yes	Yes
Debt neutrality	Yes	No	Yes	Yes	Yes	Yes
Regulatory neutrality	Yes	Yes	Yes	Yes	Yes	Yes
Commercial objectives	Yes	Yes <sup>3</sup>	Yes	Yes <sup>3</sup>	Yes	Yes
Non-commercial objectives	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory functions	Yes	Yes	Yes	Yes	Yes	Yes
Governing board responsibilities	Yes	Yes	Yes	N/A <sup>5</sup>	Yes	Yes
Governing board performance measures	Yes	Yes	Yes	N/A <sup>5</sup>	Yes	Yes
Governing board appointment	Yes	Yes	Yes	N/A <sup>5</sup>	Yes	Yes
Operational autonomy	Yes	Yes	Yes	Yes	Yes	Yes
Dividend policy	Yes	N/A <sup>4</sup>	Yes	N/A <sup>4</sup>	Yes	Yes
Payments to government	Yes	N/A <sup>4</sup>	Yes	N/A <sup>4</sup>	Yes	Yes
Annual performance reporting	Yes	Yes	Yes	Yes	Yes	Yes
Government directions	Yes	Yes	Yes	Yes	Yes	Yes
Legislative derogations from CN	N/A	Yes	N/A	Yes	N/A	N/A

## Competitive Neutrality Matrix

### Part 2: Public financial corporations (PFCs)

Assessment criteria	Country Housing Authority	Insurance Commission of WA	Keystart Housing Scheme <sup>8</sup>	WA Treasury Corp
Subject to CN	No <sup>3</sup>	Yes	No <sup>3</sup>	No
Tax neutrality	No	Yes	No	Yes
Debt neutrality	Yes	Yes	Yes	No
Regulatory neutrality	Yes	Yes	No	Yes
Commercial objectives	Yes <sup>1</sup>	Yes	No	Yes <sup>1</sup>
Non-commercial objectives	Yes	Yes	No	Yes
Regulatory functions	Yes	Yes	Yes	Yes
Governing board responsibilities	Yes	Yes	No	Yes
Governing board performance measures	Yes	Yes	No	Yes
Governing board appointment	Yes	Yes	No	Yes
Operational autonomy	Yes	Yes	Yes	Yes
Dividend policy	N/A <sup>4</sup>	Yes	N/A <sup>4</sup>	Yes
Payments to government	N/A <sup>4</sup>	Yes	N/A <sup>4</sup>	Yes
Annual performance reporting	Yes	Yes	Yes <sup>5</sup>	Yes
Government directions	Yes	Yes	Yes	Yes
Legislative derogations from CN	Yes	N/A	N/A	N/A

## Western Australia's CN matrix – explanatory notes

1. *Assessed subject to CN*: these GBEs have not been formally assessed as subject to CN, and this will be considered for further review in 2018: Metropolitan Redevelopment Authority, Racing and Wagering Western Australia, Housing Authority, Country Housing Authority, Keystart Housing Scheme.
2. *Tax neutrality* (Lotteries Commission, Racing and Wagering Western Australia, and Rottnest Island Authority):
  - Legislation requires that the Lotteries Commission pays revenue to State Government, which is designated for funding of health, sports and arts programs.
  - Racing and Wagering Western Australia pays tax, at the rates imposed by and in accordance with the sections 4 and 5 of the *Racing and Wagering Western Australia Tax Act 2003*, on moneys received by it in respect of wagers made but does not make National Tax Equivalent Regime (NTER) payments. These tax rates are only payable by Racing and Wagering WA.
  - The Rottnest Island Authority is exempt from paying tax or tax equivalents, and dividend payments. Similar to formal dividend requirements, the *Rottnest Island Authority Act 1987* currently provides for the Treasurer to determine an amount to be paid by the Authority for the credit of the Consolidated Account, from the net profits of the Authority for a financial year.
3. *Commercial and non-commercial objectives*: these GBEs have a mix of commercial and non-commercial objectives but recover all or most of their costs through fees and charges.
4. *Dividend policy and payments to government*: each of the 11 GBEs noted, with the exception of the Country Housing Authority, do not pay dividends and therefore do not have published dividend policies. The Country Housing Authority pays profit distributions to its owner.
5. *Governing board* (Public Transport Authority and State Housing Authority): neither the Public Transport Authority nor the State Housing Authority has a governing board. Consequently, they are assessed as 'N/A' for board responsibilities, performance measures and board appointments.
6. *Annual performance reporting* (Keystart Housing Scheme): The Housing Authority's annual report contains the relevant annual information for the Keystart Housing Scheme program.
7. *Keystart Housing Scheme*: The Keystart Housing Scheme is listed in the WA Budget Papers as a Public Financial Corporation (PFC) and is wholly owned by the Western Australian Government via a Trust arrangement. It is considered a PFC for the purposes of credit rating and Australian Bureau of Statistics classification of government entities, though it is not administered by Western Australian legislation, nor is it listed under the National Taxation Equivalent Regime. Dividends are paid under a preference share arrangement directly to its shareholding entity, the Housing Authority of WA (a Public Non-financial Corporation). The preference shareholding arrangement between the two agencies is required to enable Keystart borrowings to be sourced from the WA Treasury Corporation via the Housing Authority of WA, in the absence of a direct capacity to borrow from WATC. In September 2016, the State Government sold 31% of Keystart's loan book to Bendigo and Adelaide Bank.

## SOUTH AUSTRALIA COMPETITIVE NEUTRALITY MATRIX 2016-17

Assessment criteria	Forestry SA	Urban Renewal Authority	Adelaide Cemeteries Authority	Public Trustee	SA Water Corp	HomeStart Finance	West Beach Trust	Motor Accident Commission <sup>3</sup>	Adelaide Festival Centre Trust	Adelaide Venue Management Corp
Subject to CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes	Yes
Tax neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Debt neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial objectives	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Non-commercial objectives	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory functions	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board responsibilities	Yes	Yes	Yes	N/A <sup>1</sup>	Yes	Yes	Yes	Yes	Yes	Yes
Governing board performance measures	Yes	Yes	Yes	N/A <sup>1</sup>	Yes	Yes	Yes	Yes	Yes	Yes
Governing board appointment	Yes	Yes	Yes	N/A <sup>1</sup>	Yes	Yes	Yes	Yes	Yes	Yes
Operational autonomy	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dividend policy	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	N/A	Yes
Payments to government	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes
Annual performance reporting	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Government directions	Yes	N/A <sup>2</sup>	Yes	N/A <sup>2</sup>	Yes	N/A <sup>2</sup>	N/A <sup>2</sup>	Yes	Yes	Yes
Legislative derogations from CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes	Yes

## South Australia's CN matrix – explanatory notes

1. *Public Trustee*: The Public Trustee does not have a Board but it does have an Audit and Risk Management Committee, and an Investment and Advisory Committee. The responsibilities of the Public Trustee are set out in the *Public Trustee Act 1995*.
2. *Government directions*: there is no legislative requirement for the Urban Renewal Authority, the Public Trustee, HomeStart Finance, or the West Beach Trust to publish any directions given to the enterprise by the Government.
3. *Motor Accident Commission*: As part of the 2014-15 State Budget it was announced that from 30 June 2016, the Motor Accident Commission (MAC) would cease its statutory role as the sole provider of Compulsory Third Party (CTP) insurance in SA, with provision of CTP insurance opened to the private sector (Approved Insurers) from 1 July 2016. The MAC is still responsible for the management of CTP insurance claims for accidents that occurred up to and including 30 June 2016 until such time as the MAC either divests itself of that business or winds up that business.

## TASMANIA COMPETITIVE NEUTRALITY MATRIX 2016-17

Assessment criteria	Forestry Tasmania	Hydro Tas.	Aurora Energy	TasNetworks	Motor Accidents Insurance Board	TT-Line Company	Tas. Irrigation	Metro Tas.	Port Arthur Historic Site Mgmt Authority	Tas. Ports Corp	The Public Trustee	Tasrail	Tasracing
Subject to CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tax neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No (2)	Yes	Yes	Yes	Yes
Debt neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No (3)	Yes	Yes	Yes	Yes
Regulatory neutrality	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial objectives	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Non-commercial objectives (4)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulatory functions	Yes	Yes	Yes	No (5)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board responsibilities	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board performance measures	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Governing board appointment	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Operational autonomy	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dividend policy (1)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No (1)	Yes	Yes	Yes	Yes
Payments to government	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Annual performance reporting	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Government directions	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Legislative derogations from CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes



## Tasmania's CN matrix – explanatory notes

1. *Dividend policy:* The Dividend Guidelines for Tasmanian Government Businesses apply to all Government Business Enterprises (GBEs) and State-Owned Companies (SOCs) except for the Port Arthur Historic Site Management Authority. This policy is publicly available and provides sufficient flexibility for individual arrangements to be entered into with each business to appropriately reflect specific circumstances. The dividend amount that is paid to the Government is published in the Government business annual reports and in the Tasmanian Government December Quarterly Report each year. The Port Arthur Historic Site Management Authority is excluded from paying dividends in accordance with section 82 and Schedule 4 of the *Government Business Enterprises Act 1995* (the GBE Act).
2. *Tax neutrality:* The Port Arthur Historic Site Management Authority is not a prescribed entity for the National Tax Equivalent Regime (NTER).
3. *Debt neutrality:* The Port Arthur Historic Site Management Authority is not subject to debt neutrality charges (guarantee fees), in accordance with section 77 and Schedule 3 of the GBE Act.
4. *Non-commercial objectives:* Any non-commercial objectives or obligations imposed on Tasmanian Government businesses are set out in publicly available governance documents in the form of Ministerial Charters for GBEs, and Members' Statements of Expectation for SOCs.
5. *Regulatory approvals:* TasNetworks has, or may have, a role in planning approval in situations where developers use contractors for work involving minor connection assets.

## Tasmania's CN matrix – discussion

The Tasmanian Economic Regulator (TER) is an independent authority responsible for regulatory activities in respect of: the electricity industry; the gas industry; the water and sewerage industry; and a range of prices oversight issues. The TER is also responsible for conducting investigations into competitive neutrality complaints and investigations into the pricing policies of monopoly service providers. The TER incorporates the functions of the former Government Prices Oversight Commission. Tasmania considers it has an appropriate regulatory framework for ensuring competitive neutrality principles are applied to GBEs engaged in competition with the private sector.

The Tasmanian Public Finance Corporation (Tascorp) has been excluded from the Competitive Neutrality Matrix as being outside scope due to its classification as a Public Financial Corporation central borrowing authority under the Government Financial Statistics classifications. Tascorp is not considered to be in competition with the private sector.

## AUSTRALIAN CAPITAL TERRITORY COMPETITIVE NEUTRALITY MATRIX 2016-17

Assessment criteria	Land Development Agency (LDA)	CIT Solutions <sup>1</sup>
Subject to CN	Yes	Yes
Tax neutrality	Yes	Yes <sup>2</sup>
Debt neutrality	Yes	N/A
Regulatory neutrality	Yes	Yes
Commercial objectives	Yes	Yes
Non-commercial objectives	Yes	N/A
Regulatory functions	Yes	N/A
Governing board responsibilities	Yes	Yes <sup>3</sup>
Governing board performance measures	Yes	Yes <sup>3</sup>
Governing board appointment	Yes	Yes
Operational autonomy	Yes	Yes
Dividend policy	Yes	Yes <sup>3</sup>
Payments to government	Yes	Yes
Annual performance reporting	Yes	Yes <sup>4</sup>
Government directions	Yes	N/A <sup>1</sup>
Legislative derogations from CN	N/A	N/A

### ACT's CN matrix – explanatory notes

1. *CIT Solutions Pty Limited (CIT Solutions)*: CIT Solutions is a proprietary limited company wholly owned by the Canberra Institute of Technology (CIT), which is a Territory Authority. CIT Solutions operates under CIT's status as a Registered Training Organisation and has been the commercial arm of the CIT since 1988. CIT Solutions' audited financial statements are consolidated within CIT's financial statements on a calendar year basis. Unlike most other public trading enterprises, its relationship with Government is indirect, in that it is the CIT Board who holds the shares in CIT Solutions rather than a Government Minister. In this respect, directions are not given to the enterprise by Government directly. Directions could only be considered to come from Government in the sense that 100 per cent of the shares are held by the Board of a Territory Authority.
2. *Tax neutrality*: CIT Solutions is liable to all state taxes but is assessed as being exempt from income tax or income tax equivalents, due to its status as an educational institution managed by a public body.
3. *Governing board*: The Board's responsibilities, performance measures and dividend policy are published in the CIT Annual Report which is due for release in March each year.
4. *Annual performance reporting*: Annual reporting of CIT Solutions' performance is included in the CIT Annual Report.

## NORTHERN TERRITORY COMPETITIVE NEUTRALITY MATRIX 2016-17

Assessment criteria	Power and Water Corporation	Jacana Energy	Territory Generation	Land Development Corporation
Subject to CN	Yes	Yes	Yes	Yes
Tax neutrality	Yes	Yes	Yes	Yes
Debt neutrality	Yes	Yes	Yes	Yes
Regulatory neutrality	Yes	Yes	Yes	Yes
Commercial objectives	Yes	Yes	Yes	Yes
Non-commercial objectives	Yes	Yes	Yes	Yes
Regulatory functions	Yes	Yes	Yes	Yes
Governing board responsibilities	Yes	Yes	Yes	N/A <sup>1</sup>
Governing board performance measures	Yes	Yes	Yes	N/A <sup>1</sup>
Governing board appointment	Yes	Yes	Yes	N/A <sup>1</sup>
Operational autonomy	Yes	Yes	Yes	Yes
Dividend policy	Yes	Yes	Yes	Yes
Payments to government	Yes	Yes	Yes	Yes
Annual performance reporting	Yes	Yes	Yes	Yes
Government directions	Yes	Yes	Yes	Yes
Legislative derogations from CN	Yes <sup>2</sup>	Yes <sup>2</sup>	Yes <sup>2</sup>	N/A

## Northern Territory's CN Matrix – explanatory notes

1. *Governing board*: The Land Development Corporation may appoint a specialist Advisory Board as and when required on a needs basis to suit its commercial needs.
2. *Legislative derogations from competitive neutrality*: The enabling legislation for Power and Water Corporation (PWC), Jacana Energy (Jacana) and Territory Generation (T Gen) exempts these agencies from local government rates (PWC: Sn19, *Power and Water Corporation Act*. Jacana: Sn13, *Power Retail Corporation Act*. T Gen: Sn13, *Power Generation Corporation Act*). However, each agency pays rate equivalents under the Northern Territory Local Government Rate Equivalent Scheme. These equivalent payments are reported annually in Government budget papers.

## Northern Territory's CN matrix – discussion

Significant GBEs: The Northern Territory Government's threshold for determining whether a GBE is significant is as follows:

- does the GBE have considerable presence in the local market; and
- is the GBE in direct competition with the private sector?

The following GBEs are classified as significant: Power and Water Corporation, Jacana Energy, Territory Generation, and Land Development Corporation. All four GBEs are Public Non-Financial Corporations.

Excluded GBEs: The Northern Territory Treasury Corporation is excluded because it is classified as a central borrowing authority under the Government Financial Statistics Classifications. (The 2006 Competition and Infrastructure Reform Agreement states that GBEs 'are enterprises that are ... classified as Public Financial Corporations or Public Non-Financial Corporations, *excluding central borrowing authorities...*' (clause 1.4, emphasis added))

Other Northern Territory Government entities subject to principles of Competitive Neutrality: The Northern Territory Government also operates the following Government Business Divisions (GBDs): Central Australia Health Service, Data Services Centre, NT Fleet, NT Home Ownership, Territory Wildlife Park and Top End Health Service. Due to not meeting the threshold for a significant GBE, these enterprises have been commercialised rather than corporatised. It is Northern Territory Government policy that all GBDs comply with the principles of competitive neutrality.