

# Heads of Treasuries Competitive Neutrality Matrix Report

## January 2008

### Summary

- Following are the competitive neutrality (CN) compliance reporting matrixes from all States and Territories (States) and the Commonwealth, in observance with the CN reporting requirements under the *Competition and Infrastructure Regulation Agreement (CIRA)*.
- Each of the criteria paraphrased in the matrix directly reflects an obligation under either the Competition Principles Agreement (CPA) or the CIRA.
- In each column it is noted whether the criterion in the column heading has been observed.
- In cases where there has been non-compliance, the reason for the failure to comply or inapplicability of the requirement generally has been noted in the matrix or a footnote.
- The CN provisions under clause 6.1 of the CIRA cover ‘government business enterprises (GBEs) engaged in significant business activities in competition with the private sector.’
- For GBEs that are assessed by the relevant jurisdiction as not falling into this category, this exemption has generally been noted in the ‘Assessed subject to CN’ column.

### Background

- The Council of Australian Governments’ (COAG) National Competition Policy Review document, released on 10 February 2006, stated that the operation of the enhanced competitive neutrality principles in the CIRA would be monitored by Heads of Treasuries (HoTs) who would provide a high-level report to COAG on their general application, noting any issues that may require discussion.
- At its 2007 March meeting HoTs agreed to the use of the matrix template for the purpose of competitive neutrality compliance reporting.
- Heads of Treasuries agreed that States will self assess when completing the table and that the Commonwealth will not have an auditing role.
- The report from HoTs to COAG is intended to occur annually.
- Each jurisdiction is required to complete the matrix by the end of September each year.

## NEW SOUTH WALES

Principles GBE	Assessed subject to CN	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
Energy Australia	Yes to all	All comply	All comply	All comply	All comply (Note 1)	All comply (Note 2)	All comply	All comply (Note 3)	All comply (Note 4)	All comply	All comply	All comply (Note 5)	All comply (Note 6)	All comply (Note 7)	All comply (Note 8)	N/A (Note 9)
Integral Energy																
Country Energy																
Macquarie Generation																
Delta Electricity																
Eraring Energy																
TransGrid																
WSN Environment Solutions																

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Hunter Water	Yes	Yes	Yes	Yes	Yes (Note 1)	Yes (Note 2)	Complies	Yes (Note 3)	Yes (Note 4)	Yes	Yes	Yes (Note 5)	Yes (Note 6)	Yes (Note 7)	Yes (Note 8)	N/A (Note 9)
Sydney Water	Yes	Yes	Yes	Yes	Yes (Note 1)	Yes (Note 2)	Complies	Yes (Note 3)	Yes (Note 4)	Yes	Yes	Yes (Note 5)	Yes (Note 6)	Yes (Note 7)	Yes (Note 8)	N/A (Note 9)
Landcom	Yes	Yes	Yes	Yes	Yes (Note 1)	Yes (Note 2)	Complies	Yes (Note 3)	Yes (Note 4)	Yes	Yes	Yes (Note 5)	Yes (Note 6)	Yes (Note 7)	Yes (Note 8)	N/A (Note 9)
Lotteries	Yes	Yes	No debt	Yes	Yes (Note 1)	Yes (Note 2)	Complies	Yes (Note 3)	Yes (Note 4)	Yes	Yes	Yes (Note 5)	Yes (Note 6)	Yes (Note 7)	Yes (Note 8)	N/A (Note 9)
Super Admin Corp	Yes	Yes	No debt	Yes	Yes (Note 1)	Yes (Note 2)	Complies	Yes (Note 3)	Yes (Note 4)	Yes	Yes	Yes (Note 5)	Yes (Note 6)	Yes (Note 7)	Yes (Note 8)	N/A (Note 9)
Newcastle Port Corporation	Yes	Yes	Yes	Yes	Yes (Note 1)	Yes (Note 2)	Complies	Yes (Note 3)	Yes (Note 4)	Yes	Yes	Yes (Note 5)	Yes (Note 6)	Yes (Note 7)	Yes (Note 8)	N/A (Note 9)
Port Kembla Port Corporation	Yes	Yes	Yes	Yes	Yes (Note 1)	Yes (Note 2)	Complies	Yes (Note 3)	Yes (Note 4)	Yes	Yes	Yes (Note 5)	Yes (Note 6)	Yes (Note 7)	Yes (Note 8)	N/A (Note 9)
Sydney Ports Corporation	Yes	Yes	Yes	Yes	Yes (Note 1)	Yes (Note 2)	Complies	Yes (Note 3)	Yes (Note 4)	Yes	Yes	Yes (Note 5)	Yes (Note 6)	Yes (Note 7)	Yes (Note 8)	N/A (Note 9)

Principles GBE	Assessed subject to CN	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
Forests	Yes	Yes	Yes	Yes	Yes	Yes	Complies	No governing board (Note 4)	Yes (Note 4)	N/A	Yes	Yes (Note 5)	Yes (Note 6)	Yes (Note 7)	Not specified in Forestry Act 1916	N/A (Note 9)
State Transit Authority	Yes	Yes	Yes	Yes	Yes	Yes	Complies	Yes (Note 3)	Yes (Note 4)	Yes	Yes	Does not pay dividends – non-commercial PTE	Yes (Note 6)	Yes (Note 7)	Not Specified in Transport Admin Act 1988.	N/A (Note 9))

**Notes:**

- (1) 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, eg *Energy Services Corporations Act 1995*, and *Waste Recycling and Processing Corporation Act 2001*. All SOC 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,
  - to maximise the net worth of the State's investment in it.

(2) Where 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.

Also, non-commercial obligations are specified in the Statement of Corporate Intent (SCI), which is tabled in Parliament.

(3) Director's duties are published in the SOC Act. For State Transit Authority these are published in the *Transport Administration Act 1988*.

(4) 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. As Public Trading Enterprises (PTEs) Forests NSW and the State Transit Authority have Statements of Business Intent (SBI) which are similar to an SCI.

(5) See TPP 02-3 *Financial Distributions Policy for Government Businesses*.

(6) Forecast dividend payments are reported in SCIs and SBIs. 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.

(7) GBEs 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.

(8) 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 sections 20N and 21 do not need to be published in the gazette but must be tabled in Parliament. In practice it is very rare for the government to issue directions to SOCs.

(9) The legislation establishing the GBEs does not derogate from competitive neutrality principles.

## Defining ‘significant business activities in competition with the private sector’ for the purposes of applying competitive neutrality principles

Under Clause 6.1 of the CIRA, ‘the parties agree to enhance the application of competitive neutrality principles to government business enterprises engaged in significant business activities in competition with the private sector’.

The Competition Principles Agreement does not formally define the term significant.

NSW Treasury’s *Policy Statement on the Application of Competitive Neutrality* (2002) 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.

For the purposes of the Competitive Neutrality matrix the above criteria have been used in assessing the significance of government businesses.

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.

It should be noted however, that all NSW government businesses are subject to NSW’s Commercial Policy Framework. This Framework seeks to replicate appropriate disciplines and incentives that lead private sector businesses towards efficient commercial practices and promotes the principles of competitive neutrality between Government businesses and private sector enterprises of similar risk.

Government Business	Significant	In competition with private sector
<b>SOCs</b>		
Hunter Water Corporation		Yes
Sydney Water Corporation		Yes
State Water Corporation		No

WSN Environmental Solutions	YES for all	Yes
Country Energy		Yes
Delta Electricity		Yes
Energy Australia		Yes
Eraring Energy		Yes
Integral Energy		Yes
Macquarie Generation		Yes
Transgrid		Yes
Superannuation Administration Corporation		Yes
NSW Lotteries Corporation		Yes
Landcom		Yes
Sydney Ports Corporation		Yes
Newcastle Port Corporation		Yes
Port Kembla Port Corporation		Yes
Rail Infrastructure Corporation		No
Rail Corporation		No
Sydney Ferries	No	

Transport Infrastructure Development Corporation		No
<b>PTE</b>		
Sydney Catchment Authority	Yes	No
Forests NSW	Yes	Yes
Zoological Parks Board of NSW	No	No
Residual Business Management Corporation	No	No
Sydney Opera House Trust	No	Yes
Sydney Harbour Foreshore Authority	No	No
Parramatta Stadium Trust	No	Yes
Sydney Cricket and Sports Ground Trust	No	Yes
Wollongong Sports Ground Trust	No	Yes
City West Housing Pty Ltd	No	No
Sydney 2009 World Masters Games Organising Committee	No	No
Dept of Housing	Yes	No
Teacher Housing Authority	No	No
State Transit Authority	Yes	Yes



<b>PFE</b>		
NSW Treasury Corporation	Yes	No
<b>General Govt</b>		
Growth Centres Commissions	Yes	No
Public Trustee	No	No
Self Insurance Corporation	Yes	No
Honeysuckle Development Corporation	No	No
NSW Land and Property Information	No	No
State Sports Centre Trust	No	Yes
State Property Authority	Yes	No
Aboriginal Housing Office	No	No
Business Link Pty Ltd	No	Yes
Adult Migrant English Service	No	Yes
Registry of Births, Deaths and Marriages	No	No
Public Transport Ticketing Corporation	No	No

# VICTORIA

Principles GBE	Assessed subject to CN	Tax on tax equivalent payments (CPA 3(4)(b)(i))	Debt neutrality charge (CPA 3(4)(b)(ii))	Regulatory neutrality (CPA 3(4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
State Trustees Limited  ACN 064 593 148	Yes	Yes – State Trustees is required under the Tax Compliance Framework to observe the obligations of the National Taxation Equivalent Regime. See also s 88 SOE Act which requires compliance with Directions from the Treasurer in respect of tax equivalency payments	Yes – Limited Government guarantee is provided to the extent that insurance is inadequate and State Trustees assets are insufficient to satisfy liabilities. Treasurer may require a reasonable fee for any guarantee provided (s 15 ST (SOC) Act).	Yes	Yes – Strategic Plan and Corporate Plan are published in the Annual Report and given to DTF	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 or any other trustee company, person or body (s 22 ST(SOC) Act).	Yes – STL does not exercise regulatory or planning functions	Yes – see the Director’s Report and the Corporate Governance Statement in the Annual Report	Performance measures are published in the Annual Report	Yes – see Corporate Governance statement in Annual Report	Yes	Yes – see Director’s Report in the Annual Report.	Yes – see Director’s Report in the Annual Report	Yes	No directives have been issued.	Establishing legislation does not derogate from CN

**ST (SOC) Act** refers to the State Trustees (State Owned Company) Act 1994 (Vic)

**SOE Act** refers to the State Owned Enterprises Act 1992 (Vic)

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Rural Finance Corporation of Victoria	Yes	Yes	NA	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Where Act requires	NA

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VicUrban	Yes	Yes - VicUrban pays income tax equivalent payments in accordance with the National Tax Equivalent Regime.	Yes - VicUrban pays the Financial Accommodation Levy in accordance with the <i>Borrowing and Investment Powers Act 1987</i>	Yes	Yes - outlined in legislation and annual report	NA - as outlined in the establishing legislation of VicUrban, all functions are to be carried out on a commercial basis	Yes	Yes - published in annual report	Yes - published in annual report	Yes	Yes	Yes - outlined in legislation and annual report	Yes - reported in annual report	Yes - annual report published each financial year	Yes - published in the G'ment Gazette	Yes - the establishing act provides for the Governor in Council, on recommendation of the Minister, to declare an urban development project. As a result VicUrban can exercise particular powers to facilitate development. As such, this exempts declared projects from competitive neutrality requirements. Similarly, VicUrban has functions conferred by the <i>Docklands Act 1991</i> which mean that development in the Docklands precinct is also exempt from CN in some instances.

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Fed Square Pty Ltd	Yes	Exempt – ATO provided a private ruling that the income of Fed Square Pty Ltd is exempt from income tax pursuant to S24AM of the Income Tax Assessment Act 1936 as it is considered to be owned “beneficially” by the State. Fed Square is not subject to tax under the Public Sector Tax Equivalent Regime.	Does not apply to borrowings in relation to complete the construction of Federation Square but will apply to any new borrowings	Yes - Federation Square operates in a standard commercial environment Other than the income tax exemption detailed earlier, the only benefit is an exemption from land tax on the public spaces and any buildings used for charitable purposes including the National Gallery of Victoria, Australian Centre for the Moving Image and the ARM. However, this is a charitable exemption which would apply to any privately owned building used for similar purposes.	Yes – it is expected to conduct its activities according to commercially acceptable practices.	Yes. Federation Square does have many non-commercial objectives (being all the events and programming conducted at FSPL's expense and free of charge for the public to enjoy). These objectives are documented in the Cultural and Civic Charter (which is referred to in the company's Constitution)	No regulatory function	Yes – Annual Report	Yes – Annual report	Yes	Yes	NA - Although the Constitution of Federation Square permits the payment of dividends, it currently generates a significant accounting loss, and is expected to continue to generate an accounting loss in future financial years due to annual depreciation expense relating to property, plant and equipment.	NA	Annual Report published	NA	NA



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QR Limited	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A
Golden Casket Lottery Corporation Limited <sup>1</sup>																
SunWater	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A
Queensland Investment Corporation	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Forestry Plantations Queensland	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A	Yes	N/A	Yes	Yes	Yes	Yes	Yes	Yes

**Note 1** – Corporation sold during 2006-07

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CS Energy Limited	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A
ENERGEX Limited	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A
Energex Retail Pty Limited <sup>1</sup>																
Queensland Power Trading Corporation (Enertrade) <sup>2</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A
Ergon Energy Corporation Limited	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A
Ergon Energy Pty Limited <sup>1</sup>																
Powerlink Queensland (Queensland Electricity Transmission Corporation Limited)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A



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Stanwell Corporation Limited	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A
Tarong Energy Corporation Limited	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/A

**Note 1** – Corporations sold during 2006-07

**Note 2** - Enertrade is in the process of being wound-up; expected to be finalised in February 2008.

## WESTERN AUSTRALIA

Principles GBE	Assessed subject to CN <sup>a</sup>	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
<b>Public Non-Financial Corporations</b>																
Albany Port Authority	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>b</sup>	Yes	Yes	Yes	Yes	Yes	Yes
Animal Resources Authority	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
Armadale Redevelopment Authority	No	No	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Broome Port Authority	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>b</sup>	Yes	Yes	Yes	Yes	Yes	Yes
Bunbury Port Authority	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>b</sup>	Yes	Yes	Yes	Yes	Yes	Yes
Bunbury Water Board	Yes	Yes	Yes	No <sup>c</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>c</sup>	Yes	Yes	Yes

Principles GBE	Assessed subject to CN <sup>a</sup>	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
Busselton Water Board	Yes	Yes	Yes	No <sup>c</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>c</sup>	Yes	Yes	Yes
Dampier Port Authority	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>b</sup>	Yes	Yes	Yes	Yes	Yes	Yes
Eastern Goldfields Transport Board	No	Yes	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
East Perth Redevelopment Authority	No	No	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Electricity Generation Corporation (Verve Energy)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Electricity Networks Corporation (Western Power)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Electricity Retail Corporation (Synergy)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Principles GBE	Assessed subject to CN <sup>a</sup>	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
Esperance Port Authority	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>b</sup>	Yes	Yes	Yes	Yes	Yes	Yes
Forest Products Commission	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Fremantle Port Authority	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>b</sup>	Yes	Yes	Yes	Yes	Yes	Yes
Geraldton Port Authority	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>b</sup>	Yes	Yes	Yes	Yes	Yes	Yes
Gold Corporation	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lotteries Commission (Lotterywest)	Yes	No <sup>d</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Metropolitan Cemeteries Board	No	No	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes
Midland Redevelopment Authority	No	No	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Principles GBE	Assessed subject to CN <sup>a</sup>	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
Perth Market Authority	Yes	No <sup>e</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>e</sup>	Yes	Yes	Yes	Yes
Port Hedland Port Authority	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>a</sup>	Yes	Yes	Yes	Yes	Yes	Yes
Potato Marketing Corporation of Western Australia	No	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Public Transport Authority of Western Australia	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/a (no board)	Yes	Yes	Yes	Yes	No	Yes
Racing and Wagering Western Australia	No	Yes (on wagers)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Regional Power Corporation (Horizon Power)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Rottnest Island Authority	Yes	No <sup>f</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>f</sup>	Yes	Yes	Yes	Yes
Subiaco Redevelopment Authority	No	No	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Principles GBE	Assessed subject to CN <sup>a</sup>	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
Housing Authority (SHC + GEHA)	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	N/a (no board)	Yes	Yes	Yes	Yes	No	Yes
Water Corporation	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
West Australian Land Authority (Landcorp)	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Public Financial Corporations</b>																
Community Insurance Fund	No	No	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Country Housing Authority	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Insurance Commission of Western Australia	Yes	Yes	Yes	No <sup>g</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No <sup>h</sup>	Yes	Yes	Yes	Yes
Keystart Housing Scheme	No	No	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Principles GBE	Assessed subject to CN <sup>a</sup>	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
	Riskcover	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

<sup>a</sup> Assessment of whether the Government Business Enterprise complies with competitive neutrality requirements is limited to those GBE's considered significant and, therefore, subject to a competitive neutrality review. The criteria for significance under the State's competitive neutrality policy is detailed in the Annex. This policy is under review. Explanatory material for non-compliance with the CIRA and CPA obligations is only provided for those GBE's assessed as being subject to competitive neutrality.

<sup>b</sup> Not explicitly required in relevant legislation. 'Yes' in practice.

<sup>c</sup> The Bunbury Water Board and the Busselton Water Board are exempt from some regulations, and currently are not required to make dividend payments. Under proposed legislation (the Waters Services Bill) regulatory exemptions will be removed and a requirement for the water boards to make dividend payments will be introduced.

<sup>d</sup> Legislation requires that Lotteries Commission pays revenue to State Government, which is designated for funding of health, sports and arts programs.

<sup>e</sup> Exemption from the tax equivalent and dividend requirements was granted on the expectation that the authority would soon be privatised.

<sup>f</sup> The exemptions for the Rottenest Island Authority having to pay tax or tax equivalents, and make dividend payments, are currently under review.

<sup>g</sup> The Insurance Commission of Western Australia (ICWA) has some exemptions — these are currently under review.

<sup>h</sup> The ICWA does not pay dividend. This situation is currently under review.

## **APPLICATION OF COMPETITIVE NEUTRALITY TO GOVERNMENT BUSINESS ENTERPRISES**

The guidelines for determining whether a government business enterprise is subject to competitive neutrality are contained in *Western Australia's Policy Statement on Competitive Neutrality 1996*. Under the policy, competitive neutrality is to be applied to significant government enterprises where the benefits of competitive neutrality outweigh the costs.

The State's policy provides guidance on what to consider when assessing whether a government business activity is significant. Important elements of the assessment are:

- the extent of competition (or the potential for competition) between the public and private sectors; and
- the significance of the market in which the government business activity takes place to the Western Australian community.

In addition, it is noted in the Policy, that a government business activity is unlikely to be significant unless its annual revenue base or turnover is more than \$10 million.

### **Competitive neutrality review**

A competitive neutrality review is required for government businesses deemed 'significant'. Competitive neutrality provisions are applied to Government businesses only where the review shows that it is in the public interest to remove any net competitive advantages that may arise because of public ownership.

## **REVIEW OF WESTERN AUSTRALIA'S COMPETITIVE NEUTRALITY POLICY**

Western Australia's competitive neutrality is currently under review. The policy is to be updated to reflect the competitive neutrality provisions of the Competition and Infrastructure Reform Agreement (CIRA) and, among other things, to remove the requirement for a competitive neutrality review before a government business can be subject to competitive neutrality provisions.



## SOUTH AUSTRALIA

Principles	GBE	Assessed subject to CN	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/ planning approval where competes with private sector	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner	Annual public report on commercial performance and performance of any non-commercial activities	Any directions given to enterprise by the government are published (CIRA 6.1(i))	Where the legislation establishing an enterprise derogates from CN, the derogation has been
<b>ForestrySA</b>	Not exempt - Significant Business Activity Category 1	Compliant - the entity makes tax and tax equivalent payments in accordance with s29 of the PCA	Compliant - a guarantee was paid by the entity, s20 of the Public Audit & Finance Act enables the Treasurer to give a guarantee and to charge guarantee fees.	Compliant - s29 PCA states that the entity has all liabilities and duties as would apply under the law of the State and the entity is a body corporate (s4 of the Act).	Compliant - s12 of the PCA requires a Charter to be prepared which is to deal with the nature and scope of the commercial obligations undertaken by the Corporation.	Compliant - s12 of the PCA requires FSA's Charter to address the nature and scope of any non-commercial operations to be undertaken and the arrangements for their costing and funding.	Compliant - this is not a function of the entity	Compliant - the PCA sets out the Duties and Liabilities of the Board and directors.	Compliant - financial performance measures are published in the Budget Statement.	Compliant - the SA Forestry Corporation Act specifies the requirements of the directors.	Compliant - the PCA and the Corporation's independent legal status supports its operational autonomy.	Compliant - dividend arrangements are specified in the PCA and detailed in the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Compliant - S33 of the PCA also requires any approval or exemption given by its Minister or Treasurer to be set out in the annual report.	Compliant - not applicable the entity's enabling legislation does not derogate from CN.	

<b>Land Management Corporation</b>	Not exempt - Significant Business Activity Category 1	Compliant - the entity makes tax and tax equivalent payments in accordance with s12 of the PCA Schedule.	Compliant - a guarantee was paid by the entity, s20 of the Public Audit & Finance Act enables the Treasurer to give a guarantee and to charge guarantee fees.	Compliant - s12 PCA Schedule states that the entity has all liabilities and duties as would apply under the law of the State and the entity is a body corporate (s5 of the Act).	Compliant - the Regulation requires a Charter which is to set out the nature and scope of the Subsidiary's operations.	Compliant - the Regulation requires a Charter which is to set out the nature and scope of the Subsidiary's operations.	Compliant - this is not a function of the entity	Compliant - the PCA schedule sets out the responsibility and liability of directors.	Compliant - financial performance measures are published in the Budget Statement.	Compliant - the PCA schedule specifies the requirements of the directors.	Compliant - the Subsidiary's independent legal status supports its operational autonomy.	Compliant - dividend arrangements are specified in the Regulation and detailed in the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Non compliant - there is no legislative requirement for LMC to publish any directions given to the enterprise by the government. However, as LMC is a project based entity, most of its projects need Cabinet's approval. During this Cabinet approval any directions by the Government are also set out.	Compliant - not applicable the entity's enabling legislation does not derogate from CN.
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<b>Adelaide Cemeteries Authority</b>	Not exempt - Significant Business Activity Category 1	Non compliant - the entity does not make income tax equivalent payments. A review of ACA's tax equivalent policy is currently being undertaken as part of the implementation of a new Ownership Framework for ACA.	Compliant - currently no outstanding debt with the Treasurer	Compliant - s29 PCA states that the entity has all liabilities and duties as would apply under the law of the State and the entity is a body corporate (s4 of the Act).	Compliant - the PCA requires a Charter to be prepared which is to deal with the nature and scope of the commercial obligations undertaken by the Authority.	Compliant - the PCA requires the Charter to address the nature and scope of any non-commercial operations to be undertaken and the arrangements for their costing and funding.	Compliant - this is not a function of the entity	Compliant - the PCA sets out the Duties and Liabilities of the Board and directors.	Non compliant - a review of ACA's performance measures is currently being undertaken as part of the implementation of a new Ownership Framework for ACA.	Compliant - the Act specifies the skills needed by the Board.	Compliant - the PCA and the Authority's independent legal status supports its operational autonomy.	Non compliant - the entity does not make dividend payments. A review of ACA's dividend policy is currently being undertaken as part of the implementation of a new Ownership Framework for ACA.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Compliant - S33 of the PCA also requires any approval or exemption given by its Minister or Treasurer to be set out in the annual report.	Compliant - not applicable the entity's enabling legislation does not derogate from CN.
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<p><b>Lotteries Commission of South Australia</b></p>	<p>Not exempt - Significant Business Activity Category 1</p>	<p>Compliant - the entity makes tax and tax equivalent payments in accordance with s29 of the PCA</p>	<p>Compliant - a guarantee was paid by the entity, s20 of the Public Audit &amp; Finance Act enables the Treasurer to give a guarantee and to charge guarantee fees.</p>	<p>Compliant - s29 PCA states that the entity has all liabilities and duties as would apply under the law of the State and the entity is a body corporate (s4 of the State Lotteries Act).</p>	<p>Compliant - the State Lotteries Act identifies the Powers and Functions of the Commission.</p>	<p>Compliant - the Act identifies the Powers and Functions of the Commission. The Commission is subject to the control and directions of the Government acting through the Minister but no such direction shall be inconsistent with the Act.</p>	<p>Compliant - this is not a function of the entity</p>	<p>Compliant - the State Lotteries Act sets out the probity standards of directors.</p>	<p>Compliant - financial performance measures are published in the Budget Statement.</p>	<p>Compliant - the Act provides guidelines of the skills and requirements needed to be on the Board.</p>	<p>Compliant - the Commission's independent legal status supports its operational autonomy.</p>	<p>Compliant - dividend arrangements are specified and detailed in the Act and in the annual report.</p>	<p>Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.</p>	<p>Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.</p>	<p>Non compliant - there is no legislative requirement for SA Lotteries to publish any directions given to the enterprise by the government.</p>	<p>Compliant - not applicable the entity's enabling legislation does not derogate from CN.</p>
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<b>Public Trustee</b>	Not exempt - Significant Business Activity Category 1	Compliant - the entity makes tax equivalent payments in accordance with s47 of the Act.	Compliant - currently no outstanding debt with the Treasurer	Compliant - s47 of the Public Trustee Act states that the entity has all liabilities and duties as would apply under the law of the State and the entity is a body corporate (s4 of the Act).	Compliant - the Act specifies the functions and powers of the Public Trustee.	Compliant - the Act specifies the functions and powers of the Public Trustee. The Minister may not direct the Public Trustee to affect the efficient discharge of the Public Trustee's duties.	Compliant - this is not a function of the entity	Compliant - the Act sets out the probity standards of the Public Trustee.	Compliant - financial performance measures are published in the Budget Statement.	Not Compliant - the Public Trustee does not have a Board	Compliant - the Public Trustee's independent legal status supports its operational autonomy.	Compliant - dividend arrangements are specified in the Act and detailed in the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Non compliant - there is no legislative requirement for Public Trustee to publish any directions given to the enterprise by the government.	Compliant - not applicable the entity's enabling legislation does not derogate from CN.
<b>SA Water Corporation</b>	Not exempt - Significant Business Activity Category 1	Compliant - the entity makes tax and tax equivalent payments in accordance with s29 of the PCA	Compliant - a guarantee was paid by the entity, s20 of the Public Audit & Finance Act enables the Treasurer to give a guarantee and to charge guarantee fees.	Compliant - s29 PCA states that the entity has all liabilities and duties as would apply under the law of the State and it an independent legal status..	Compliant - the PCA requires a Charter to be prepared which is to deal with the nature and scope of the commercial obligations undertaken by the Corporation.	Compliant - the PCA requires the Charter to address the nature and scope of any non-commercial operations to be undertaken and the arrangements for their costing and funding.	Compliant - this is not a function of the entity	Compliant - the PCA sets out the Duties and Liabilities of the Board and directors.	Compliant - financial performance measures are published in the Budget Statement.	Compliant - the Act provides guidelines of the skills needed by the Board.	Compliant - the PCA and the Corporation's independent legal status supports its operational autonomy.	Compliant - dividend arrangements are specified in the PCA and detailed in the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Compliant - S33 of the PCA also requires any approval or exemption given by its Minister or Treasurer to be set out in the annual report.	Compliant - not applicable the entity's enabling legislation does not derogate from CN.

<b>Dept for Families and Communities - HomeStart Finance</b>	Not exempt - Significant Business Activity Category 1	Compliant - the entity makes tax equivalent payments in accordance with s25 of the Housing and Urban Development Act.	Compliant - a guarantee was paid by the entity, s20 of the Public Audit & Finance Act enables the Treasurer to give a guarantee and to charge guarantee fees.	Compliant - s25 of the Housing and Urban Development Act states that the entity has all liabilities and duties as would apply under the law of the State and has all powers of a natural person.	Compliant - the functions of HomeStart are set out in the Act.	Compliant - the functions of HomeStart are set out in the Act.	Compliant - this is not a function of the entity	Compliant - the Act sets out the Duties and Liabilities of the Board and directors.	Compliant - financial performance measures are published in the Budget Statement.	Compliant - the Act provides guidelines of the skills and requirements needed to be on the Board.	Compliant - the Act states that the board of a statutory corporation is responsible to the Minister for overseeing the operations of the statutory corporation (and any subsidiary)	Compliant - dividend arrangements are specified in the Act and detailed in the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Non compliant - there is no legislative requirement for HomeStart to publish any directions given to the enterprise by the government.	Compliant - not applicable the entity's enabling legislation does not derogate from CN.
<b>West Beach Trust</b>	Not exempt - Significant Business Activity Category 1	Compliant - the entity makes tax equivalent payments in accordance with s21 of the West Beach Recreation Reserve Act.	Compliant - a guarantee was paid by the entity, s20 of the Public Audit & Finance Act enables the Treasurer to give a guarantee and to charge guarantee fees.	Compliant - s21 of the Act states that the entity has all liabilities and duties as would apply under the law of the State and the entity is a body corporate (s5 of the Act).	Compliant - the Act requires a Charter to be prepared which is to deal with the nature and scope of the commercial obligations undertaken by the Trust.	Compliant - the Act requires the Charter to address the nature and scope of any non-commercial operations to be undertaken and the arrangements for their costing and funding.	Compliant - this is not a function of the entity	Compliant - the Act sets out the probity standards of directors.	Compliant - financial performance measures are published in the Budget Statement.	Compliant - the Act provides guidelines of the skills and requirements needed to be on the Board.	Compliant - the Trust's independent legal status supports its operational autonomy.	Compliant - dividend arrangements are specified in the Act and detailed in the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.	Non compliant - there is no legislative requirement for West Beach Trust to publish any directions given to the enterprise by the government.	Compliant - not applicable the entity's enabling legislation does not derogate from CN.

<p><b>Motor Accident Commission</b></p>	<p>Exempt - the Commission has been included as a Residual Entities (not SBAs) listed in table 6.2 and s14A of the MAC Act states that the Government Business Enterprises (Competition) Act 1996 does not apply to the Commission.</p>	<p>Non compliant - the entity is exempt from Competitive Neutrality principles.</p>	<p>Compliant - currently no outstanding debt with the Treasurer</p>	<p>Compliant - s23 of the MAC Act states that the entity has all liabilities and duties as would apply under the law of the State and the entity is a body corporate (s4 of the Act).</p>	<p>Compliant - the functions and objectives of the Commission are set out at s14 of the Act. The Act at s18 also requires the Minister to prepare a Charter to deal with the nature and scope of the activities to be undertaken by the Commission.</p>	<p>Compliant - the functions and objectives of the Commission are set out at s14 of the Act. The Act at s18 also requires the Minister to prepare a Charter to deal with the nature and scope of the activities to be undertaken by the Commission.</p>	<p>Compliant - this is not a function of the entity</p>	<p>Compliant - the Act establishes the Board of Directors as the governing body of MAC. The Board is also subject to direction by the Minister. The responsibilities of the Commission is set out in s18 of the Act.</p>	<p>Non compliant - the entity is exempt from Competitive Neutrality principles.</p>	<p>Compliant - the Act outlines the composition of the Board and each Director is to be appointed by the Governor.</p>	<p>Compliant - the Commission's independent legal status supports its operational autonomy.</p>	<p>Non compliant - no reference to a dividend policy in the Act, but s26 of the Act provides for the Treasurer to direct the Commission to make payments to the Treasurer or payments as the Treasurer directs where a surplus exists in the Compulsory Third Party Fund. The entity is exempt from Competitive Neutrality principles.</p>	<p>Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.</p>	<p>Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting within the annual report.</p>	<p>Non compliant - there is no legislative requirement for MAC to publish any directions given to the enterprise by the government.</p>	<p>Non compliant - however, the Commission is only included as a Residual Entity (not an SBA) as listed in table 6.2 and s14A of the Act states that the Government Business Enterprises (Competition) Act 1996 does not apply to the Commission.</p>
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<b>Adelaide Festival Centre Trust</b>	Not exempt - Significant Business Activity Category 1	Compliant	Compliant	Compliant	Pending <sup>1</sup>	Compliant	Compliant - this is not a function of the entity	Compliant	Pending <sup>1</sup>	Compliant	Compliant	Compliant	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting.	Compliant	Compliant - not applicable the entity's enabling legislation does not derogate from CN.
<b>Adelaide Convention Centre</b>	Not exempt - Significant Business Activity Category 1	Compliant	Compliant - currently no outstanding debt with the Treasurer	Compliant	Compliant	Compliant	Compliant - this is not a function of the entity	Compliant - Legislative Regulations	Compliant	Compliant - appointed by Minister	Compliant	Compliant	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting.	Compliant	Compliant - not applicable the entity's enabling legislation does not derogate from CN.
<b>Adelaide Entertainment Centre</b>	Not exempt - Significant Business Activity Category 1	Compliant	Compliant - currently no outstanding debt with the Treasurer	Compliant	Compliant	Compliant	Compliant - this is not a function of the entity	Compliant - Legislative Regulations	Compliant	Compliant - appointed by Minister	Compliant	Compliant	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting.	Compliant	Compliant - not applicable the entity's enabling legislation does not derogate from CN.



<b>TransAdelaide</b>	Not exempt - Significant Business Activity Category 1	Compliant	Compliant	Compliant	Compliant	Compliant - TransAdelaide's contract with the Government specifies no material non-commercial obligations	Compliant - this is not a function of the entity	Compliant	Compliant - performance measures include profit and dividend targets only.	Compliant	Compliant	Compliant	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting.	Compliant - the entity is to comply with the Public Finance and Audit Act 1987 which requires transparent reporting.	Compliant	Compliant - not applicable the entity's enabling legislation does not derogate from CN.
<b>Note: PCA</b>	Public Corporations Act 1993															
1. Establishment of an AFCT charter and performance statement (as required under regulations) is currently being worked on by the Department of Premier and Cabinet.																

# TASMANIA

Principles GBE	Assessed subject to CN	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
Hydro Tasmania	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Aurora Energy Pty Ltd	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗ <sup>1</sup>	✓	✓	✓	✓
Transend Networks Pty Ltd	✓	✓	✓	✓	✓	N/A	✓	✓	✓	✓	✓	✗ <sup>1</sup>	✓	✓	✓	✓
Motor Accident Insurance Board	✓	✓	✓	✓	✓	N/A	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
TT-Line Company	✓	✓	✓	✓	✓	N/A	✓	✓	✗ <sup>2</sup>	✓	✓	✗ <sup>1</sup>	✓	✓	✓	✓
Forestry Tasmania	✓	✓	✓	✓	✓	✓	✓	✓	✗ <sup>2</sup>	✓	✓	✓	✓	✓	✓	✓
Rivers and Water Supply Commission	✓	✓	✓	✓	✓	N/A	✓	✓	✗ <sup>2</sup>	✓	✓	✓	✓	✓	✓	✓

TOTE Tasmania Pty Ltd	✓	✓	✓	✓	✓	N/A	✓	✓	✓	✓	✓	✓	✗ <sup>1</sup>	✓	✓	✓	✓
Metro Tasmania Pty Ltd	✓	✓	✓	✓	✓	✓	✓	✓	✗ <sup>2</sup>	✓	✓	✓	✗ <sup>1</sup>	✓	✓	✓	✓
Port Arthur Historic Site Management Authority	✓	✗ <sup>3</sup>	✓	✓	✓	✓	✓	✓	✗ <sup>2</sup>	✓	✓	✓	✓	✓	✓	✓	✓
Printing Authority of Tasmania	✓	✓	✓	✓	✓	N/A	✓	✓	✗ <sup>2</sup>	✓	✓	✓	✓	✓	✓	✓	✓
Southern Regional Cemeteries Trust	✓	✓	✓	✓	✓	N/A	✓	✓	✗ <sup>2</sup>	✓	✓	✓	✓	✓	✓	✓	✓
Tasmanian Port Corporation Pty Ltd	✓	✓	✓	✓	✓	N/A	✓	✓	✗ <sup>2</sup>	✓	✓	✓	✗ <sup>1</sup>	✓	✓	✓	✓
The Public Trustee	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

1. All State Owned Companies have been provided via a Shareholders Letter of Expectation the Dividend policy for State Owned Companies however this is not currently publicly available. The policy is based on the same principles as the Dividend Policy for Government Owned Enterprises that is publicly available.
2. There is a requirement for Government Business Enterprises to publish in their annual report performance measures in the Statement of Corporate Intent, however there is no formal requirement for State Owned Companies, although some voluntarily report this information.
3. Port Arthur Historic Site Management Authority is not a prescribed entity for NTER

## NORTHERN TERRITORY

Principles GBE																
	Assessed subject to CN	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
Darwin Port Corporation	Y	Y	Y	Y	Y	Y	Y	Y	n/a <sup>1</sup>	Y	Y	Y	Y	Y	Y	Y <sup>2</sup>
Power and Water Corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y <sup>3</sup>
Territory Insurance Office	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	n/a <sup>4</sup>

<sup>1</sup> Darwin Port Corporation Board is advisory only.

<sup>2</sup> Section 45 of the *Darwin Port Corporation Act* exempts Darwin Port Corporation (DPC) from local government rates. However, DPC pays rate equivalents under the Northern Territory Local Government Rate Equivalent Scheme. Equivalent payments are reported annually in Government budget papers.

<sup>3</sup> Section 19 *Power and Water Corporation Act* exempts the Power and Water Corporation (PWC) from local government rates. However, PWC pays rate equivalents under the Northern Territory Local Government Rate Equivalent Scheme. Equivalent payments are reported annually in Government budget papers.

<sup>4</sup> Section 28 of the *Territory Insurance Office Act* states “nothing in this or any other Act relieves the Office from liability to pay Territory taxes, rates and duties in respect of its business and activities that it would have if it were a company incorporated under the Corporations Act 2001”.

## **Overview of Northern Territory Government Business Enterprises (GBEs):**

### 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:

- Darwin Port Corporation (Public Non-Financial Corporation)
- Power and Water Corporation (Public Non-Financial Corporation)
- Territory Insurance Office (Public Financial Corporation)

### Excluded GBEs:

The Northern Territory Treasury Corporation is excluded due to its classification as a Central Borrowing Authority under Government Financial Statistics Classifications.

### Other Northern Territory Government entities subject to principles of Competitive Neutrality:

The Northern Territory Government also operates the Government Business Divisions (GBDs) listed below. Due to their small size these enterprises have been commercialised rather than corporatised, and do not meet the criteria of a significant GBE. It is Northern Territory Government policy that all GBDs comply with the principles of competitive neutrality.

- Construction Division
- Data Services Centre
- Darwin Bus Service
- Government Printing Office
- NT Fleet
- Territory Discoveries
- Territory Housing
- Territory Wildlife Park

## AUSTRALIAN CAPITAL TERRITORY

Principles GBE	Assessed subject to CN	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector (CIRA 6.1(c))	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities (CIRA 6.1(i))	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published (CIRA 6.1(k))
	Land Development Agency (LDA)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
ACTTAB	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a
CIT Solutions <sup>1</sup>	Yes	Yes <sup>2</sup>	Yes	Yes	Yes	n/a	Yes	No <sup>3</sup>	No <sup>3</sup>	Yes	Yes	No <sup>3</sup>	Yes	Yes <sup>4</sup>	n/a <sup>1</sup>	n/a

1. CIT Solutions Pty Limited (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 Chief Executive of CIT who owns the shares in CIT Solutions rather than a Government Minister. (The Chief Executive of CIT is also the Chair of the Board of CIT Solutions.) 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 the the Chair of the Board and the only Shareholder is the Chief Executive of a Territory Authority.
2. CIT Solutions is liable to all state taxes but it is not subjected to the income tax or income tax equivalents as it is exempt by being an educational institution.
3. From 2008, these will be publicly available.
4. Reporting on CIT Solutions is in the CIT's Annual Report.

# COMMONWEALTH

Principles GBE	Assessed subject to CN	Tax or tax equivalent payments (CPA 3 (4)(b)(i))	Debt neutrality charge (CPA 3 (4)(b)(ii))	Regulatory neutrality (CPA 3 (4)(b)(iii))	Enterprise has clear commercial objectives (CIRA 6.1(a))	Non-commercial objectives or obligations specified and publicly reported (CIRA 6.1(b))	Does not exercise regulatory/planning approval where competes with private sector	Governing board responsibilities published (CIRA 6.1(d))	Performance measures against which board accountable published (CIRA 6.1(d))	Governing board appointed on basis of particular skills needed by board (CIRA 6.1(e))	Operational autonomy in day to day management of affairs (CIRA 6.1(f))	Dividend policy applicable to the enterprise clearly and publicly specified (CIRA 6.1(g))	Payments to government as shareholder or for purposes of CN identified in transparent manner (CIRA 6.1(h))	Annual public report on commercial performance and performance of any non-commercial activities	Any directions given to enterprise by the government are published (CIRA 6.1(j))	Where the legislation establishing an enterprise derogates from CN, the derogation has been published
Health Services Australia (HSA)	Yes – As a GBE, the entity is automatically subject to CN and the Australian Government Competitive Neutrality Guidelines for Manager (CN Guidelines)	Yes	No current borrowings.  If HSA were to borrow, it must do so from the private sector and must comply with CN.	Yes	Yes	Yes – Disclosed in Statement of Corporate Intent (SCI)	Yes	Yes – Responsibilities outlined in Part 3 of 'Governance Arrangements for Commonwealth Government Business Enterprises (GBE Governance Arrangements), which is a public document.  HSA is also subject to requirements prescribed under the <i>Corporations Act 2001</i> .	Yes – Part 2 of GBE Governance Arrangements requires broad financial and non-financial performance measures to be published in the Statement of Corporate Intent (SCI)	Yes	Yes	Yes – Dividend policy outlined in Part 4 of GBE Governance Arrangements	Yes – Required under Section 7.1 of the CN Guidelines	Yes. Covered as part of Annual Report	Yes – Part 1 of the GBE Governance Arrangements requires all Ministerial directions to be in writing and tabled in Parliament	N/A No enabling legislation

Australian Rail Track Corporation Ltd (ARTC)	Yes – As a GBE, the entity is automatically subject to CN	Yes	No current borrowings.  If ARTC were to borrow, it must do so from the private sector and must comply with CN.	Yes	Yes	Yes – Disclosed in SCI	Yes	Yes – Responsibilities outlined in Part 3 of GBE Governance Arrangements ARTC is also subject to the requirements prescribed under the Corporations Act.	Yes – Part 2 of GBE Governance Arrangements requires broad financial and non-financial performance measures to be published in the SCI.	Yes	Yes	Yes – Dividend policy outlined in Part 4 of GBE Governance Arrangements	Yes – Required under Section 7.1 of the CN Guidelines	Yes. Covered as part of Annual Report	Yes – Part 1 of the GBE Governance Arrangements requires all Ministerial directions to be in writing and tabled in Parliament	N/A No enabling legislation
Australian Government Solicitor (AGS)	Yes – As a GBE, the entity is automatically subject to CN	Yes	No current borrowings.  If AGS were to borrow, it must do so from the private sector and must comply with CN	Yes	Yes	Yes – Disclosed in SCI and prescribed in enabling legislation	Yes	Yes – Responsibilities outlined in Part 3 of GBE Governance Arrangements  Note: under the <i>Judicial Act 1903</i> , the CEO is also the sole director of AGS for the purposes of the CAC Act.	Yes – Part 2 of GBE Governance Arrangements requires broad financial and non-financial performance measures to be published in the SCI.	Yes – CEO (who is the sole director of AGS) is appointed on basis of relevant skills	Yes	Yes – Dividend policy outlined in Part 4 of GBE Governance Arrangements	Yes – Required under Section 7.1 of the CN Guidelines.  Further, as a statutory authority, Clause 24 of the Finance Minister's Orders (FMOs) requires the disclosure of all CN payments in financial statements	Yes. Covered as part of Annual Report	Yes – Part 1 of the GBE Governance Arrangements requires all Ministerial directions to be in writing and tabled in Parliament	N/A – Enabling legislation amended to reflect CN requirements (e.g. make tax equivalent payments (TEPs) where required).  Note: AGS pays income tax but makes TEPs for all other taxes



Australia Post	Yes – As a GBE, the entity is automatically subject to CN	Yes	Yes.  Post is able to borrow from the private sector or the C'wealth.  However, in practice, Post borrows from the private sector and must comply with CN	Yes	Yes	Yes – Disclosed in SCI and prescribed in enabling legislation	Yes	Yes – Responsibilities outlined in Part 3 of GBE Governance Arrangements and enabling legislation	Yes – Part 2 of GBE Governance Arrangements requires broad financial and non-financial performance measures to be published in the SCI.	Yes	Yes	Yes – Dividend policy outlined in Part 4 of GBE Governance Arrangements	Yes – Required under Section 7.1 of the CN Guidelines. Further, as a statutory authority, Clause 24 of the FMOs requires the disclosure of all CN payments in financial statements	Yes. Covered as part of Annual Report	Yes – Part 1 of the GBE Governance Arrangements requires all Ministerial directions to be in writing and tabled in Parliament.  Enabling legislation also provides for directions to be in writing and tabled in Parliament.	N/A – Enabling legislation is consistent with CN (e.g. Post is liable for all Commonwealth and State taxes).
Defence Housing (DHA) Australia	Yes – As a GBE, the entity is automatically subject to CN	Yes	Yes.  DHA borrows from the C'wealth. The borrowing terms must comply with CN	Yes	Yes	Yes – Disclosed in SCI and prescribed in enabling legislation	Yes	Yes – Responsibilities outlined in Part 3 of GBE Governance Arrangements and enabling legislation	Yes – Part 2 of GBE Governance Arrangements requires broad financial and non-financial performance measures to be published in the SCI.	Yes	Yes	Yes – Dividend policy outlined in Part 4 of GBE Governance Arrangements	Yes – Required under Section 7.1 of the CN Guidelines. Further, as a statutory authority, Clause 24 of the FMOs requires the disclosure of all CN payments in financial statements	Yes. Covered as part of Annual Report	Yes – Part 1 of the GBE Governance Arrangements requires all Ministerial Directions to be in writing and tabled in Parliament  Enabling legislation also provides for directions to be in writing and disclosed in annual report.	N/A – Enabling legislation amended to reflect CN requirements (e.g. make tax equivalent payments where required).  Note: DHA pays income tax but makes TEPs for other taxes.

Medibank Private Ltd (MPL)	Yes – As a GBE, the entity is automatically subject to CN	Yes – Like other not-for-profit health funds, Medibank is exempt from paying income tax but pays all other relevant taxes (incl GST, GBT and payroll)	No current borrowings. If MPL were to borrow, it must do so from the private sector and must comply with CN.	Yes	Yes	Yes – Disclosed in SCI	Yes	Yes – Responsibilities outlined in Part 3 of GBE Governance Arrangements  MPL is also subject to the requirements prescribed under the Corporations Act.	Yes – Part 2 of GBE Governance Arrangements requires broad financial and non-financial performance measures to be published in the SCI.	Yes	Yes	N/A – Medibank is a not-for-profit entity	Yes – Required under Section 7.1 of the CN Guidelines	Yes. Covered as part of Annual Report	Yes – Part 1 of the GBE Governance Arrangements requires all Ministerial Directions to be in writing and tabled in Parliament	N/A No enabling legislation
ASC Pty Ltd	Yes – As a GBE, the entity is automatically subject to CN	Yes	No current borrowings. If ASC were to borrow, it must do so from the private sector and must comply with CN.	Yes	Yes	Yes – Disclosed in SCI	Yes	Yes – Responsibilities outlined in Part 3 of GBE Governance Arrangements  ASC is also subject to the requirements prescribed under the Corporations Act.	Yes – Part 2 of GBE Governance Arrangements requires broad financial and non-financial performance measures to be published in the SCI.	Yes	Yes	Yes – Dividend policy outlined in Part 4 of GBE Governance Arrangements	Yes – Required under Section 7.1 of the CN Guidelines	Yes. Covered as part of Annual Report	Yes – Part 1 of the GBE Governance Arrangements requires all Ministerial Directions to be in writing and tabled in Parliament	N/A No enabling legislation