

Brokering Balance: A Public Interest Map for Queensland Government Bodies

**An Independent Review of Queensland Government
Boards, Committees and Statutory Authorities**

**Part B Report
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1. Introduction

Last year, the Premier of Queensland announced a major public sector reform program with five new public sector reform initiatives. One of the five reform initiatives was this Review of Queensland Government Boards, Committees and Statutory Authorities.

The Premier said the public sector reform initiatives would result in the most wide ranging changes to the Queensland public sector than any in the past decade. The reform objective was to 'create a more modern, efficient, and effective public service' with the review of government bodies to reduce 'both number and cost'. The Premier said, 'I want to cut unnecessary red tape and identify and free up people and funding for the delivery of core public services'.¹

The purpose of this Review is to *reduce bureaucracy and red tape*, whilst improving efficiency and maintaining regulatory integrity.²

The Review commenced in July 2008 and was conducted in two parts.

Part A was required to consider the current framework of government bodies and recommend a governance decision-making model for improving the relevance, efficiency and effectiveness of the roles and functions currently performed by government bodies.

On 1 December 2008, the Reviewers released a report for public consultation. The report, *A Public Interest Map: An Independent Review of Queensland Government Boards, Committees and Statutory Authorities* (the Part A Report), made preliminary recommendations for a *Public Interest Map* decision-making model for both review of the 459³ government bodies within its scope and as a future framework for public sector governance of non-departmental government bodies in Queensland.

The terms of reference for Part B required in respect of its list of 459 government bodies-

Informed by the recommended option delivered in Part A, Part B will identify and recommend to the Premier:

- those government bodies that are working efficiently;
- those government bodies that are no longer necessary and can be abolished immediately;
- the work of any government bodies that can be merged into the functions of an existing government department;

¹ Bligh, A.M., Ministerial Media Statement, 12 March 2008.

² Terms of Reference (at Appendix F).

³ The Government added two additional bodies to the Review list of 457 originally.

- whether there are other bodies that carry out similar or complementary functions and, if so, whether the functions of the government bodies can be transferred to one of these other bodies;
- those government bodies for which longer term strategies may be considered, e.g. delivery of function by alternative manner; and
- a process for the establishment of any future government bodies, which takes into consideration the need for a new body given that existing bodies may be able to perform the proposed functions.⁴

This Part B Report finalises its recommendations for 'a process for the establishment of any future government bodies' with detailed guidance and decision-making tools in the *Public Interest Map* at Appendix A.

The Reviewers' *Public Interest Map* framed the review approach in respect of each of the 459 bodies. The Part B Report recommends which bodies should be abolished or merged, which functions should be transferred, where relevant national reforms or other sunseting circumstances are imminent, and other suitable alternatives appropriate for both reducing bureaucracy and effecting savings. These recommendations concerning individual government bodies are made in chapters 4 to 8 (inclusive) and are summarised at Appendix B.

Appendix D provides an index to all 459 bodies reviewed in the Part B Report.

Methodology

Despite the challenge of such an extensive review undertaking, in such a compact timeframe, this Review enjoyed a quality and diverse level of engagement with the public and with organisational stakeholders, as evidenced by the following:

- The Review's website link at www.premiers.qld.gov.au/Government/Boards_and_committees/Review received a total of **13,381 hits** (as at 23 February 2009) to its 123 pages with a total of **8,030 different visitors** attending. The public submissions published on the web were the most popular pages viewed (2,415 visitors).
- In August 2008, the Queensland Government's 23 departments conducted a self-audit of the government bodies within their respective portfolios against the Review's standard set of audit guidelines.
- In September 2008, the Reviewers placed a public notice in state-wide newspapers advising of the conduct of the Review and inviting public contributions on the Review's terms of reference. (23 written contributions were received).

⁴ Terms of Reference (at Appendix F).

- In September 2008, the Reviewers also wrote to all chief executive officers, chairpersons and members of government boards, committees and statutory authorities in Queensland⁵ and invited their participation in the Review, commencing with an online survey. A total of **588** valid surveys were completed (68 CEOs, 509 members plus 11 non-defined).
- On 1 December 2008, the Part A Report was released with a call for public submissions on its draft *Public Interest Map* and an invitation to government bodies to self-administer the Threshold Test and Organisational Form Guide to their own entities in particular. The Reviewers wrote to all **457** government bodies then within the scope of the Review again to encourage their participation.
- A further **95** public submissions were received in addition to the 23 in response to the first call in 2008. Appendix E lists the public submissions received. Many public submissions took up the challenge to apply the *Public Interest Map* to their own bodies. Many public submissions also engaged with the strategic discussion questions posed in the Part A Report concerning bureaucracy and red tape, governance, and the defining challenge: independence and ministerial responsibility. All submissions were of an impressively high standard and the Reviewers considered them most useful in informing the Review. One hundred and sixteen public submissions were published on the Review's website and a number of representative submissions have been quoted in this Part B Report.
- Over **600** copies of the Part A Report were distributed throughout Queensland. A further **724** visitors accessed or downloaded copies of the Part A Report from the Review's website (as at 23 February 2009).
- The Reviewers conducted additional consultations with government bodies, government departments, independent statutory office holders, and business as needed to discuss and supplement the extensive materials it already had available to it.

The Part A Report made clear its Review presumptions:

All bodies within the scope of the terms of reference are to be open to genuine review. Also, there is no savings target as such and the *number* of bodies of itself is not the issue. The key is *value*, in public interest terms (particularly relevance, economy, efficiency, effectiveness and accountability).⁶

The Terms of Reference for Part B⁷ anticipated that bodies would be abolished or merged, and functions transferred. The Part B Report confirms that anticipation among recommendations for the status quo where it was so determined.

⁵ Reviewers' correspondence was despatched to current addresses via Departments.

⁶ Part A Report, p. 49.

⁷ Terms of Reference (at Appendix F).

As the Part A Report also made clear-

By the nature of the review's high level terms of reference and short timeframe, these individual reviews will not be intensive strategic management review undertakings into each body.⁸

The Reviewers are keen to emphasise that point.

The Reviewers did not approach their remit by conducting efficiency audits on bodies.

That was neither their task, nor remotely possible in the timeframe. Their public undertaking was to apply the *Public Interest Map*.

Thus, it must be understood that where recommendations to abolish or merge bodies or transfer functions are made, that conclusion does not of itself represent a finding of inefficiency. Rather, the Threshold Test and/or the Organisational Form Guide found that the body in its current polity (i.e. its structure or mission as regards other bodies, *as distinct from* its performance) did not make out a Public Interest Case to substantiate a recommendation for the status quo.

Acknowledgements

The Reviewers wish to acknowledge and express their gratitude for the positive and helpful contributions made by all who participated in the Review and gave so freely of their advice and their time, as outlined above.

The Reviewers are also indebted to the superb dedication of its small but very effective secretariat lead by Rita Jackel, most ably assisted part-time by Robynne Macgroarty, and with the careful and thorough support provided by Tim Kershaw, Felicity Jones, Michelle Hartog and Kerri Neuendorf. The Reviewers also pay thanks for the efforts of Vanessa Rowe, Peter Barraclough and Nonie Malone in their time earlier in the Review.

⁸ Part A Report, p. 3.

List of acronyms

ASX	Australian Securities Exchange
CBU	Commercialised Business Unit
CEO	Chief Executive Officer
COAG	Council of Australian Governments
FAAA	<i>Financial Administration and Audit Act 1977</i> (Qld)
GOC	Government Owned Corporation
NCP	National Competition Policy
OECD	Organisation for Economic Co-operation and Development
SBFA	<i>Statutory Bodies Financial Arrangements Act</i> <i>1982</i> (Qld)
SDPC	(former) Service Delivery and Performance Commission (Qld)

2. Executive summary

Delegation, or devolution of public power should be unambiguous, transparent, granted and exercised in the public interest, accountable, and subject to review.⁹

This Review Report finishes what it began. The Part A Report, *A Public Interest Map: An Independent Review of Queensland Government Boards, Committees and Statutory Authorities* (December 2008) proposed a public governance decision-making model to reduce excess bureaucracy and red tape in respect of the hundreds of government-funded or empowered bodies that exist outside traditional government departments. The Premier tasked the Reviewers with reducing both number and cost of government bodies from a list of 459 bodies to 'free up people and funding for the delivery of core services'.¹⁰

This Part B Report recommends specific change for 334 of those 459 non-departmental government bodies.

Of these, 218 bodies should not be continued. 188 bodies should be abolished: their functions are either redundant or they can be better undertaken by other entities. 19 bodies should be divested of public ownership (either sold or converted to non-governmental form). 11 bodies should be merged with other entities. Change is imminent for a further 116 bodies mostly subject to sunset clauses or national reform processes.¹¹

Initial direct savings for the change recommendations are estimated at more than \$18m. This estimate only includes savings in sitting fees and direct administration costs. The estimate is grossly conservative as it does not account for savings in duplicated departmental structures and salaried time spent in oversighting the non-departmental bodies, as well as excessive appointment processing costs (up to \$50,000 for a single Governor in Council appointment). It does not account for savings to be made from avoiding the opportunity costs of excess bureaucracy and red tape, which once removed, will release time and talent for important initiatives in serving the community. Nor does it include the efficiency and accountability dividends that would flow from implementation of the extensive recommendations for suitability of organisational form and good governance¹². These will all be extra savings to the public purse and benefits to the polity.

This summary of change is dramatic, but it is not reckless.

The recommended change recognises the essential place for non-departmental bodies in a healthy polity and the considerable contribution made by those bodies and their members so distinguished by their necessity and value. But that reality is not true for all government bodies. Some suffer from jurisdictional overlap or duplication of functions and effort; others have lost their contemporary relevance.

⁹ Core premise of the *Public Interest Map* (see Part A Report, p. 49; Part B Report, p. 18 and Appendix A).

¹⁰ Bligh, A. M., Ministerial Media Statement, 12 March 2008.

¹¹ See Chapters 4-8 and Appendix B.

¹² See pp. 30-60, p. 202, and Appendix A.

Some are not financially sustainable, or are not fit for purpose. Others have been created without contestable and persuasive reasons, or as a result of political circumstance. Many provoke governance and accountability concerns. All test the defining tension between their independence and the electorate's expectations for Ministerial responsibility.¹³

The *public interest* is the key in brokering balance and clarity of decision-making in the cacophony of competing interests challenging effective or contrary responses by Government. The recommended *Public Interest Map*¹⁴ provides a transparent and guided application of the public interest in dealing with excess bureaucracy and red tape. It was applied to all the 459 bodies under review and should be applied to all government bodies in the future.

The *Public Interest Map* first scrutinises why there is a need for the creation of an additional government body. The Threshold Test establishes four criteria in limiting excess bureaucracy.

If a Public Interest Case is made to justify an additional body then the *Organisational Form Guide* informs suitable choice and hierarchy of form avoiding excess power, risk, and red tape. Of contemporary concern, the Organisational Form Guide will enforce rigour and contestability into the decision-making process that seeks to establish companies to undertake government activities.

The *Good Governance Framework* proposes a common and certain set of minimum standards, processes and responsibilities for the external and internal governance of government bodies. A generic Government Bodies Act would provide a legislative taxonomy of form, and within each form type, a *minimum* set of standards would apply. The proposed legislation would remedy the current inconsistent and incomplete governance framework that exists in Queensland and that currently poses a public interest risk to accountability, economy, efficiency and effectiveness of government bodies. The Government Bodies Act would be supported by a policy framework that addresses in appropriate detail the various procedural and policy elements of the Threshold Test, Organisational Form Guide, and supplementary guidance for the Good Governance Framework.

These measures are not only far from reckless but they were strongly supported by government bodies, departments and other stakeholders during the highly-participative, quality and diverse consultations the Review enjoyed.

The *Public Interest Map* succeeded in opening all bodies to genuine review.

¹³ Part A Report is the companion document to this Part B Report – see Part A Report, pp.18-41.

¹⁴ See Recommendations 1, 2 and the *Public Interest Map* detailed in Appendix A.

3. *A Public Interest Map for Queensland Government Bodies*

An Opposition Member of the Queensland Legislative Assembly would talk of the 'fashion' in Australia of entrusting 'everything to boards'.¹⁵

That was in the 1880s.

The Opposition member was Sir Samuel Griffith (later Premier of Queensland, Chief Justice of the Supreme Court, federationist, and first Chief Justice of the High Court of Australia).

Sir Samuel Griffith also served on Queensland boards such as the head of trustees of both Grammar Schools in Brisbane and a trustee of the Queensland Art Gallery.¹⁶

A decade ago, Justice Paul Finn observed that despite the practice and tradition of statutory bodies in the 175 years since, 'an openly articulated and principled view of how state-owned corporatised bodies fit into our system of government' has not been 'satisfactorily achieved'.

This, importantly, affects our giving a principled explanation of their proper accountability obligations. And we have magnified our problem by our present fascination in applying private sector analogues to these bodies seemingly so as to emphasise their business rather than governmental features.¹⁷

A range of boards, committees, statutory authorities and other government bodies or enterprises still share in the delegation or devolution of public power as the distributed public governance model continues. As Emeritus Professor Wettenhall (S38) adds-

... while the ['new public management' international reform movement¹⁸] and privatising influences have made significant changes to the functional areas involved and to autonomy/control balances, there is nevertheless considerable continuity in the general Australian experience'.¹⁹

Indeed, Australia has been a 'pioneer' in making 'extensive use' of public enterprises over much of its settled history and, through to the late 1980s, (incorporated) statutory authorities were the country's dominant form of public enterprise organisation.²⁰

¹⁵ Justice Finn, P. – 'The State Corporation' – *Flinders Journal of Law Reform*, Vol.3, No.1, June 1999, p. 2.

¹⁶ Joyce, R. B., *Australian Dictionary of Biography*, online edition, Australian National University, 2006, <http://www.adb.anu.edu.au/biogs/A090113b.htm>, accessed on 18 February 2009.

¹⁷ Justice Finn, P. – 'The State Corporation' – *Flinders Journal of Law Reform*, Vol.3, No.1, June 1999, p. 3.

¹⁸ Part A Report, pp.10-13.

¹⁹ S38 Roger Wettenhall, p. 4.

²⁰ Wettenhall, R. – 'The rising popularity of the government-owned company in Australia: problems and issues', *Public Administration and Development*, No. 18, 1998, p. 243.

In Queensland, the 'fashion' of our recent times has been the proliferation of public sector companies,²¹ although other bodies such as those on which Sir Samuel Griffith served in the 1880s continue to this day.

An incomplete and inadequate framework also continues for the creation, performance, review and *place* of these non-departmental bodies. The Part A Report discussed why that matters.²² The Part B Report seeks to address it.

The **challenge** for government in reducing bureaucracy and red tape is in getting the **balance** right.

As the Part B process has confirmed: ministerial responsibility, independence, accountability, commerciality, sustainability, inclusivity, plurality, organisational capability, performance, strategy, excess bureaucracy and red tape are but some of the issues competing to be heard in any decision-making affecting relevant interests of numerous government and non-government stakeholders.

The **key** is that the essential purpose of public sector endeavour, non-departmental bodies included, is to serve the public.

Justice Finn argues that to question the fundamental character of these bodies is easy to answer:

Whether a body takes the form of a statutory corporation [an incorporated statutory body] or a state-owned registered company it acts for and on behalf of the public which owns and empowers it.²³

The **public interest** should be paramount in government's decision-making model concerning public sector bodies.

The public interest (in contrast to private or individual interests) concerns the greater wellbeing of society, the public. That is not to say that the interests of the majority would prevail in making a decision on public interest grounds in circumstances where minority interests call for promotion or protection in a reasoned assessment of the greater good. Consideration of the public interest, on a case by case basis and subject to scrutiny, can be guided by public interest principles like accountability, economy, efficiency, effectiveness and relevance in serving community expectations and working to guard against decisions being made by the most dominant self-maximising concerns.

Under the *Public Sector Ethics Act 1994*, Queensland public officials are expected to abide the ethical obligation 'to advance the common good of the community the official serves' as a requirement of the public sector 'integrity' principle and 'in recognition that public office involves a public trust'.²⁴

²¹ Part A Report, p. 57.

²² Part A Report, Chapter 4: The Challenges, pp. 18-41.

²³ Justice Finn, P. – 'The State Corporation' – *Flinders Journal of Law Reform*, Vol.3, No.1, June 1999, p. 3.

²⁴ *Public Sector Ethics Act 1994*, s. 9(1)(b).

3.1 Reducing bureaucracy and red tape

The purpose of this Review is ‘to reduce bureaucracy and unnecessary red tape; improve the overall efficiency of government bodies; and maintain the integrity and security of necessary regulatory functions’.²⁵

3.1.1 Meanings

‘Bureaucracy’ conveys positive, neutral or negative meaning depending on context and audience.

In a general sense, ‘bureaucracy’ can mean the people, processes, structures and systems that administer the business of (typically large) organisations.

The well-known Weberian notion common in social and political sciences regards bureaucracy, in the ideal sense, as the rational and supremely efficient way of conducting administration by virtue of its division of labour and specialisation of tasks as supported by uniform and explicit rules, record-keeping, a vertical hierarchy of authority, organisational continuity, and staff who are accountable for their use of resources and do not derive any personal benefit from the conduct of their duties in an impartial manner. Real organisations are more or less bureaucratic depending on the extent to which their form accords with the ideal: less bureaucracy will tend to *less* efficiency.

This is to be contrasted with popular usage of the term ‘bureaucracy’, such as in the current review context calling for a *reduction* of bureaucracy and red tape to *improve* efficiencies and effect savings for higher priority services. This is the sense of the word therefore that is used within the frame of the Review’s reports. This common, pejorative sense of bureaucracy connotes excessive size or excessive number of organisations or correlates to perceived dysfunctional consequences related to inefficiency or ineffectiveness where for example instead of enabling reliability and efficiency, control by uniform rules delivers rigidity and displaced outcomes (such as where the process *means* become the end). ‘Red tape’ usually accompanies the derisive bureaucracy expression and suggests excessive regulation by an organisation and is blamed for slow, tedious, duplicative or unnecessary processes. That is not to blight record-keeping or regulation *per se*, both of which are necessary for good government, and in the public interest.

The purpose of this Review is to reduce bureaucracy and red tape by reducing ‘both number and cost’ of government bodies and improving the overall efficiency of government bodies.²⁶

That objective is not inconsistent with the Review finding that many government bodies outside the vertically integrated departmental structures are both essential in their design and in their high performance and outcomes. Several bodies reviewed

²⁵ Terms of Reference (at Appendix F).

²⁶ Terms of Reference (at Appendix F); Bligh, A. M., Ministerial Statement, 12 March 2008.

during the Part B process were prime examples. So too, it should be reiterated, the public interest has been served well by Queensland's history of skilled and dedicated members serving in various capacities on, and for, Queensland government bodies (many in an essentially honorary, or even philanthropic, capacity).²⁷

The Wet Tropics Management Authority (S40) added that in some circumstances non-departmental bodies 'serve to diminish, rather than add to service delivery fragmentation when seen from the perspective of the citizen/client. Government benefits from (cheap) access to the knowledge and wisdom of board members'.²⁸

The Part A Report also noted the benefits of cross-cutting roles and integrated services in responding to complex or acute problems or service needs from users' perspectives, 'future forms of government are likely to involve a combination of vertical hierarchies particularly for carrying out long-standing tasks with clear lines of management and accountability, and horizontal structures for determining strategy and carrying out shorter-term tasks'.²⁹

3.1.2 Causes

In addressing the Review's terms of reference, the Part A Report³⁰ analysed circumstances where bureaucracy and red tape in the pejorative senses arise and invited public submissions to identify additional causes.

Bureaucracy, in its pejorative sense, results in a number of ways, including:

First, there was **no, or an insufficient, business case** [Public Interest Case] raised – with contestable and persuasive reasons – to support the creation of an additional body in the first instance. This may be attributed to an absence of process or a process lacking sufficient rigour or integrity to act as gatekeeper for bureaucratic excess. There may have been, for example, a flawed presumption that the departmental alternative would be less 'efficient', or that presumption could have been invalidated by enhancements to the departmental model at less cost and bureaucratic activity than creation of a new and additional body.

Second, valid reasons for the creation of additional bodies **lost their contemporary relevance or weight** through changed circumstances of need, environment, better alternatives arising – or simply, the initial charter had been fulfilled. [The Part B review process proved this source of excess bureaucracy and red tape several times in a distinctive category of instances where unchecked histories produced anomalies of structure which translate to a 'wrong fit' and invariably provoked red tape measures in trying to assert some order.]

²⁷ Part A Report, p. 37 (and note 123), p. 50.

²⁸ S40 Wet Tropics Management Authority.

²⁹ Part A Report, p. 12.

³⁰ Part A Report, pp. 20-21.

Third, the organisational form established for the additional body is **not fit for purpose** or the most suitable such that the efficiency and effectiveness of the body is compromised. The 2003 Review of the Corporate Governance of Statutory Authorities and Office Holders (Uhrig review) for the Australian Government took the view that '*boards have little opportunity to add value*. Governments often delegate the administration of a narrow set of functions, limiting the issues to be addressed by the authority to the efficient and effective delivery of outcomes. This is essentially a management task'.

Fourth, the body is **not financially sustainable**, or is perceived as a drain on finite public funds in the face of competing public policy priorities, such as 'front line' services. There may be misalignment of public policy expectations, communication or reputational difficulties for the body in demonstrating value for money, or an objective whole of government review of the business case for the body fails to earn it a share in public funding.

Fifth, there is **jurisdictional overlap or duplication of functions** – or a failure to take responsibility to perform functions - arising for example from-

- poor initial organisational design within the broader government framework;
- poor coordination, or poor 'client' service integration among relevant bodies and departments (e.g. expectations for streamlined 'client' service in support of life events such as moving to the state from another jurisdiction and requiring professional registration for employment – as suggested to this Review in public contributions made to date);
- poor management of functions (and inadequate performance accountabilities); or
- a lack of clarity in roles and responsibilities.

Sixth, there is **duplication of effort** across agencies in performing their respective functions or there are **inconsistent systems and processes** across like functions by various bodies and departments - both yield criticisms not only for wasted resources but for wasted *opportunity*. For instance, governance arrangements by region across the State of Queensland are different typically from one body or department to the next. Apart from the inefficient spend in resources in collecting and analysing information from competing statistical basis for public policy purposes, as well as in the performance of cross-portfolio coordination functions when critical to region, there can be lost opportunity by the cost to public policy innovation reliant on data of a less accessible or transferable quality. This sense of bureaucracy is aggravated if the situation is an historical hangover from past systems and processes (which would require capital expenditure to remedy in an appropriately staged and coordinated way), or a failure to take a coordinated and strategic view of public sector endeavour.

The public submissions³¹ and the Review's survey responses added a seventh, where the applicability of **existing rules or controls are unclear** or they are **not**

³¹ S65 Queensland Treasury; S83 Department of Infrastructure and Planning.

followed correctly resulting in either wasted effort or non-performance (then damage-control) or, *additional* rules or controls being implemented-

For example, as a result of collusion, a fraud occurred in an agency and, in response, more rules were implemented. If the correct internal controls had been followed in the first instance, then the fraud would not have occurred. Therefore the enforcement of effective controls, delegations and authority, with appropriate reporting, can reduce the likelihood of unnecessary bureaucracy occurring.³²

From the discussion of the 2002 OECD study in the Part A report, there is an eighth possible cause of excess bureaucracy that can be attributed to **political circumstances**:

- Patronage: bodies created to pay off political allies, to create power bases for specific factions, or to provide opportunities for sequestration of public assets or resources...
- Cosmetic: simply to give a separate identity to a function which is considered politically important.³³

3.1.3 A *Public Interest Map* in response

The Part A Report proposed a *Public Interest Map for Government Bodies* in providing a transparent, principled and objective guide to inform consistent decision-making on the futures of the 459 government bodies under review. The *Public Interest Map* also can be applied in considering the creation of new bodies, and in regular review of existing bodies.

Appendix A consolidates the various strategies recommended under the *Public Interest Map*. In addition to this detail, Appendix A includes both a summary form (also copied at Figure 3.1) and a *concept form*³⁴ which traces the design thinking from the Part A Report in response to three basic questions arising from the Review's remit to reduce bureaucracy and red tape through a governance decision-making model.

1. **why** have a (non-departmental) government body?;
2. if justified, **what** form should it take?; and
3. **how** should it govern and be governed?

In response to these three questions, the Part A Report recommended a Threshold Test, an Organisational Form Guide and a Good Governance Framework. These three strategies together form the *Public Interest Map* and respond to the eight possible different causes of excess bureaucracy and red tape concerning non-departmental bodies that were identified in the Review, as follows:

³² S65 Queensland Treasury.

³³ Part A Report, p. 19.

³⁴ This is a copy of Figure 6.1 at p. 51 of the Part A Report – renamed 'concept form'.

Possible causes:	Recommended responses, include:
1. No, or an insufficient, business case	Threshold Test Organisational Form Guide
2. Lost contemporary relevance or weight	Threshold Test Organisational Form Guide (which includes requirement for sunset clause or regular review for all bodies)
3. Not fit for purpose	Organisational Form Guide
4. Not financially sustainable	Threshold Test
5. Jurisdictional overlap or duplication of functions	Threshold Test Good Governance Framework
6. Duplication of effort or inconsistent systems and processes	Good Governance Framework
7. Applicability of existing rules or controls are unclear or they are not followed correctly	Good Governance Framework
8. Political circumstances	Threshold Test (which requires 'compelling reason[s]' in the public interest – where (party) political interests do not align with the public interest, the Threshold Test would not be met).
These recommended responses (particularly for 5, 6 and 7) should be supported by optimum organisational performance - see below.	

These *Public Interest Map* strategies primarily concern improvements to structures, systems and processes. They assist management of, but do not of themselves attend to, poor or less than optimum performance by public officials/staff of government bodies. Optimum performance requires not only that existing rules and processes are followed efficiently and effectively, but that organisational leadership and management are ensuring that the right things are being done at the right time and in the right way. As discussed in the Part A Report (pp. 22-24), organisational performance strategies such as process reviews for continuous improvement, communication strategies seeking to align expectations, and an outcomes-focus as part of contemporary management practices will all assist in responding to the personalisation of the red tape experience by citizens/customers. However, building organisational *capability* that is expert in managing positively the interpersonal dimension of public sector transactions will be critical in reducing the negative sense of bureaucracy and red tape for all players when, or before, it arises.³⁵

³⁵ Note also, *Public Sector Ethics Act 1994*, s. 8 defines the ethics principle requiring 'Respect for Persons' as an ethical obligation in the following terms: A public official should treat members of the public and other public officials honestly and fairly; and with proper regard for their rights and obligations. And, a public official should act responsively in performing official duties.

The Part A Report noted research on ‘inherent behavioural risks’ to the public interest where dysfunctional public sector behaviours create mediocrity and underperformance which in turn would impact on the economy, efficiency and effectiveness of government bodies (as much as they would for government departments).³⁶

The *Public Interest Map* seeks to guide public sector *governance* decisions concerning non-departmental bodies according to the public interest.

Design of the *Public Interest Map* was supported by the following premises and conclusions, as stated in the Part A Report:

- Delegation or devolution of public power should be unambiguous, transparent, granted and exercised in the public interest, accountable, and subject to review.
- Similarly, expenditure of public funds should be clearly and transparently authorised, accountable, and subject to scrutiny and probity.
- Clarity and transparency supports good governance, which provides for accountability, and leads to good performance *outcomes*.
- Private sector models of corporate governance are not necessarily superior to public sector governance models.
- Particular functions or structures may not be necessary, or appropriate, on an indefinite basis.
- Organisational forms, and governance, are an evolving and inexact science.
- There should be functional necessity and regulatory integrity observing minimisation of administrative process, compliance costs and regulatory impact.³⁷

³⁶ Part A Report, pp. 30-32.

³⁷ Part A Report, p. 49.

Figure 3.1

(summary form)

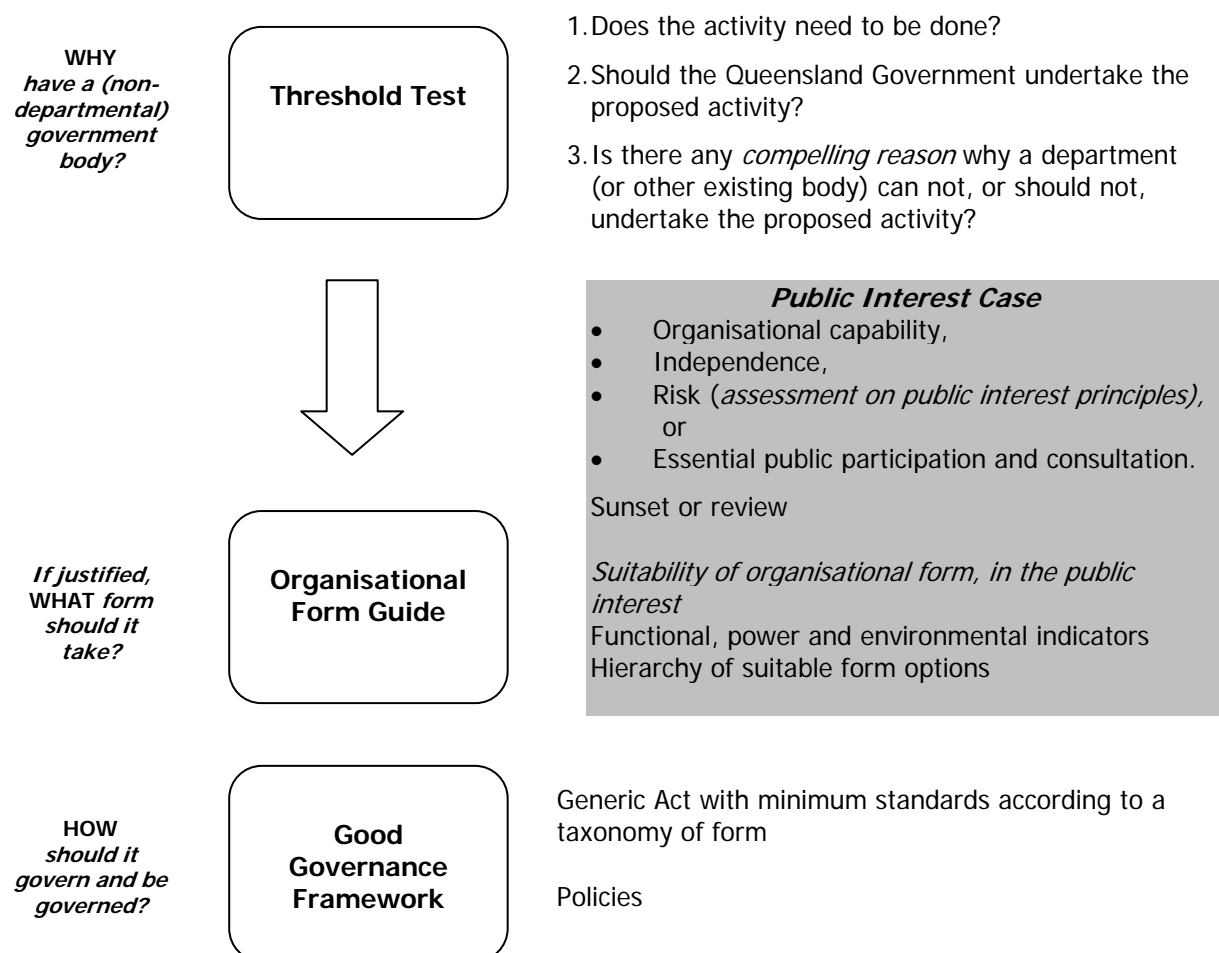
A Public Interest Map for Queensland Government Bodies

Core Premises:

Government Ministers are responsible to Parliament, and ultimately to the electorate, for the operation of all departmental and non-departmental bodies within their portfolio.

A portfolio department is the organisational form of first choice for government.

Delegation, or devolution of public power should be unambiguous, transparent, granted and exercised in the public interest, accountable, and subject to review.



The Part A Report and the *Public Interest Map* received wide, and in many instances strong, support across the Review's 95 public submissions. For example-

The [Water] Commission recognises the value in undertaking this review, and commends the comprehensive approach that the reviewers have adopted in the compilation of the Part A report. The framework for the next stage of the

review establishes a logical and consistent approach to achieving improved outcomes for the community... Additionally, I support the scope for improved consistency in the legislative frameworks for government bodies and their governance, where those bodies continue to exist outside portfolio departments following the review. This would contribute to the ongoing performance and accountability of those bodies, particularly through clarifying and standardising governance requirements.³⁸

The [Library] Board supports the general assumptions upon which the recommended model has been based – that government is best undertaken, wherever possible, through a department structure which affords the greatest transparency and accountability, and control and flexibility for the conduct of Ministerial responsibility. However, it is equally clear that there will always be cases where non-government entities are not only an expedient but also a more efficient and effective solution for the conduct of government business.³⁹

I am particularly supportive of the public interest case process articulated in your report. I believe that the preparation of a thorough business case based on the threshold test as suggested in your report will aid in ensuring that appropriate consideration is given when determining whether and in what form a new government entity is to be established.⁴⁰

The Department strongly supports the development of a framework that will bring integrity and consistency to the establishment and functions of Government bodies. The proposed Threshold Test is simple and effective and is logically followed by the public interest case process.⁴¹

The Public Interest Map appears in principle to be sound, valid and relevant to contemporary government... The application of genuine public interest principles gives legitimacy and direction to sound decisions of Government, including whether public governance and decision-making is distributed.⁴²

Through the threshold questions and the public interest case having to be considered before establishing any public sector body, greater rigour will be added to the decision-making process. Introducing sunset clauses and regular reviews are essential to ensure public sector bodies continue to fulfill the purpose originally intended.⁴³

One area of a department questioned whether it would be 'constructive for departments to also apply the *Public Interest Map* to activities currently being performed within departmental structures which might be better off

³⁸ S36 Queensland Water Commission.

³⁹ S37 Library Board of Queensland.

⁴⁰ S13 Department of Main Roads.

⁴¹ S14 Department of Primary Industries and Fisheries.

⁴² S64 Non-State Schools Accreditation Board and the Non-State Schools Eligibility for Government Funding Committee, p.6.

⁴³ S60 Auditor-General of Queensland.

governed/operated outside the departmental structure?’⁴⁴ Certainly, such contemplation is beyond the scope of this Review but the question is a good one in testing that the logic of the *Public Interest Map* survives in reverse application.

Many submissions agreed with the *Public Interest Map* but strongly disagreed with their inclusion by the Government on the list of bodies to be reviewed under the Reviewers’ terms of reference. One department,⁴⁵ however, argued that the bodies within its portfolio outside the scope of the Review should be included in the *Public Interest Map* review process of Part B for a complete representation of the portfolio.

Some public submissions sought further detail to guide *Public Interest Map* consideration of Public Private Partnerships, the needs of multiple-ownership bodies,⁴⁶ and when the Australian Government requires that a non-departmental body be set up⁴⁷ – Appendix A (p. 6) now includes those details specifically.

Many submissions accepted the Review’s invitation to apply the *Public Interest Map* to their own bodies providing a good indication of its robustness and suitability in application.

3.2 The Threshold Test

The Threshold Test - as the first strategy of the *Public Interest Map* – sets up a weighted preference against creating a non-departmental public body in favour of a department⁴⁸ as the organisational form of first choice for government.⁴⁹

An evidence-based assessment of the public interest requirements of departmental form or otherwise in a particular case and for different policy settings, as well as the benefits that can be argued in favour of the ‘doctrine of subsidiarity’ (that call for localising public power to lowest possible levels) can be made *on a case by case basis* through the recommended Public Interest Case process in the Threshold Test. This Public Interest Case feature is consistent with the proposition that ‘one size does not fit all’ and enables a policy solution that is flexible and simple, yet certain and comprehensive.

3.2.1 Threshold Questions

The first two questions of the recommended Threshold Test are:

1. Does the activity need to be done?

⁴⁴ S51 Office of Aboriginal and Torres Strait Islander Policy, Department of Communities.

⁴⁵ S83 Department of Infrastructure and Planning.

⁴⁶ S92 Department of Tourism, Regional Development and Industry.

⁴⁷ e.g. S92 Department of Tourism, Regional Development and Industry; S75 Department of Employment and Industrial Relations.

⁴⁸ As defined under s. 4A of the *Financial Administration and Audit Act 1977*.

⁴⁹ See supporting discussion in Part A Report, pp. 11-13, 18-20, 33-36, 42-46, 52-60.

(The perceived need may in fact be unsubstantiated; or, a policy decision may be taken *not* to act in the circumstances.)

2. Should the Queensland Government undertake the proposed activity?⁵⁰ (It might be properly a private sector activity, better performed through private ownership or even community arrangements. It may be more appropriate in the circumstances for a non-government organisation (with or without specific funding arrangements) to undertake the activity. Or, the activity might call for the role and functions of the local government or the federal government instead. Alternative interjurisdictional arrangements might be more suitable than Queensland Government activity alone.)

If both these questions are answered in the affirmative then, the gateway question before creating a new body should be:

3. Is there any *compelling* reason why a department (or other existing body) can not, or should not, undertake the proposed activity?

The Threshold Test questions specifically received wide-ranging support across the public submissions and consultation processes.

One public submission questioned whether the word 'compelling' might be open to ambiguity as it is 'not commonly used in legislation or other formal government decision-making processes' and suggested an alternative formulation where the public interest would 'require the activity to be conducted by an entity' with a description of a threshold measure.⁵¹ The Reviewers maintain that the most simple, consistent and therefore effective approach is to impose a '*why not*' default question, i.e. the base position is that departments conduct government activity. An onus is placed on the contender for a variation to that position to argue *why not* (rather than *why to*) with compelling public interest reason(s). The use of the word 'compelling' provides the threshold measure in that showing a valid reason is not enough, the valid reason needs to be compelling (meaning forceful or overpowering⁵²) before changing the premise that the department is to undertake the activity. In addition to its public service-wide application in the 1992 freedom of information legislation, the expression 'compelling reason' finds legislative use such as in the *Public Service Act 2008* (s.200), *Child Protection Act 1999* (s.186), *Public Health Act 2005* (s.196), and the *Criminal Code Act 1889*. The expression also has broader non-legislative but formal application in government decision-making. The Treasurer of Queensland in parliamentary debate, for example, has referred to a decision-making process where

⁵⁰ This question asks whether the activity should be undertaken at all by any entity of the Queensland Government irrespective of its organisational form (e.g. department, statutory authority, government-owned company).

⁵¹ S50 Legal Aid Queensland, p. 11.

⁵² 'forceful or overpowering': 1. is the ordinary sense of the word; 2. accords with dictionary meanings; and 3. also was upheld as the meaning of 'compelling' by the Supreme Court of Queensland on judicial review of the Information Commissioner's decision concerning the meaning of 'unless disclosure is required by compelling reason in the public interest' in s.39(2) of the *Freedom of Information Act 1992*, *Whittaker v Information Commissioner and Auditor-General of Queensland* [2001] QSC 325; [2002] 2 Qd R 557; (2001) 6 QAR 90.

a 'compelling case in the public interest' would need to be made before the exercise of a ministerial power.⁵³

3.2.2 Public Interest Case

A Public Interest Case should justify the creation (or continuation) of a non-departmental body in answering the third threshold question:

Is there any *compelling* reason why a department (or other existing body) can not, or should not, undertake the proposed activity?

Through a Public Interest Case, at least one of four threshold criteria must provide the compelling reason(s):

- organisational capability;
- independence;
- risk (public interest risk principles guide an assessment of risk); or
- essential public participation and consultation.

The Public Interest Case must also clearly identify the role, responsibilities, risk and accountability profile for the proposed new entity.

The Part A Report⁵⁴ noted the following considerations, which are relevant to a Public Interest Case:

- Departments are flexible as they can be reorganised to meet new objectives and perform new functions.
- 'The same managerialism that brought the bias in favour of private sector methods also contributed to a more 'efficient' public sector focused on results through the adoption of private sector techniques and standards'.
- 'The greater scrutiny of government resulting from increased transparency and accountability may render the 'arm's length' arrangements that were made for statutory office holders outside departments less important than previously'.
- It is possible to 'endow government departments – or parts of them – with specific powers or exemptions from control without the necessity of creating a new separate legal entity. Proposals to exempt one public organisation from a specific external control begs the question of why this control remains in place for others'.
- 'Delegations of authority within a standard legal framework for departments can be more easily withdrawn than for some non-departmental structures'. (Once a non-departmental structure has been created, it is often quite difficult to reverse the decision).
- New bodies created require careful consideration of the 'new risks they create as well as their putative benefits'.

⁵³ Fraser, A., Water & Other Legislation Amendment Bill; South East Queensland Water (Restructuring) Bill, Second Reading Speech (Cognate Debate), 14 November 2007, (Hansard, p. 4280).

⁵⁴ Part A Report, pp. 11, 12, 19, 43.

Another consideration relevant to the departmental form are the expected workplace public sector cultural values and codes of conduct under the *Public Sector Ethics Act 1994* requiring for example probity in ensuring that public resources are not wasted, abused, or used improperly or extravagantly.⁵⁵

Although the following public submission was made in support of the capacity of non-departmental bodies to align with government priorities, it also highlighted that it can not be assumed necessarily that a non-departmental body is a form that assures independence-

... successful non-departmental bodies are at all times acutely conscious of the interest of their Minister(s) and are eager to ensure they align with Ministerial priorities in the best way they can. If they fail to do so, there is no hiding within a large bureaucracy and they risk falling into disfavour with potentially disastrous consequences for the viability of their organisations.⁵⁶

Size and accountability

In his public submission, the Auditor-General (S60) said-

I believe that community expectations are that public sector entities regardless of their size and value will be cost-effective, fully accountable for the funds entrusted to them and transparent in their external reporting. Reporting to Parliament and the community should not be considered to be bureaucracy or red tape but is essential in ensuring the Parliament and community is well informed of the activities undertaken and the funds utilised in the entity's operations. For this reason, consideration needs to be given when establishing a public sector body to the expected accountability requirements and their associated costs.

All public sector entities are accountable to the Parliament for the management of funds under their control. For departments, statutory bodies, government owned corporations and local governments, this is achieved through the preparation of audited general purpose financial statements and the tabling of these statements in an annual report to Parliament. The management of smaller bodies which meet the definition of public sector entities are also accountable to Parliament as well to their stakeholders for the assets and funds under their control. However, they are not always subject to the same accountability and transparency requirements because of differences in the legislative frameworks for different types of public sector entities.

As the review paper points out, some of the public sector bodies included as part of the paper are low risk and low value in terms of their revenue and expenditure. In small bodies where there are often weak internal controls,

⁵⁵ *Public Sector Ethics Act 1994* sets out five ethics principles (respect for the law and the system of government, respect for persons, integrity, diligence, economy and efficiency) and related obligations.

⁵⁶ S40 Wet Tropics Management Authority.

external reporting and audit deter opportunities for fraud, misappropriation or corruption, and act to detect going concern issues. However, the fee charged to complete an audit in these circumstances can sometimes add to the overall cost of the body. In these cases, it may be more efficient and effective for the functions currently carried out by some public sector bodies could be performed by departments which already have well established internal control and reporting structures.

From a QAO perspective, the number of public sector entities which are required to be audited by me as included in this review and the timing of the finalisation and audit of their financial statements has sometimes presented difficulties. Many of these bodies are in remote locations and their financial reporting is often performed by the associated local governments which has a different statutory reporting deadline. This has provided a challenge to me in conducting cost-effective audits within a reasonable timeframe.⁵⁷

The 2005 *Governance Arrangements for Australian Government Bodies* provide that sufficient capacity to devote appropriate resources to governance matters is required – and where a body's size suggests that the effort of attention to these matters would be disproportionate, then the body may best be consolidated into a department or with another body.⁵⁸

Commerciality

The SEQ Water Grid Manager (S45) and LinkWater and LinkWater Projects (S77) suggested a fifth threshold criterion of 'commerciality', and that the Public Interest Case also ask whether customer service would be improved if delivered by a non-departmental body.

...departments are not structured to adequately operate commercial operations for the following reasons:

- At present, departments are bound by certain public sector legislation such as the *Public Service Act 2008* and the *Financial Accountability and Audit Act 1977*, which restrict departments in undertaking activities that are imperative to commercial operations e.g.
 - Raising revenue
 - Operating an independent bank account
 - Borrowing or investing funds
 - Staff employment conditions
- The current structure of departmental decision making does not currently allow for quick or substantial decisions to be made. In operating a commercial business it is often necessary for the

⁵⁷ S60 Auditor-General of Queensland.

⁵⁸ Department of Finance and Administration, *Governance Arrangements for Australian Government Bodies*, Financial Management Reference Material No. 2, Australian Government, Canberra, August 2005, p. 35. See also Part A Report, p. 43.

organisation and its board, to make decisions quickly on issues affecting the organisation, and often these decisions may be substantial (regarding for example products and marketing campaigns).

- A good example of this issue in practice is commercial business units (CBUs). CBUs are areas of government that are part of a portfolio department, but have the mandate to act commercially and provide a return to government (dividends). In practice, CBUs often struggle with the decision making structure within departments which do not allow them to make commercial decisions at times when needed (e.g. investment in new information technology).⁵⁹

The Reviewers agree that 'commerciality' is relevant in considering a Public Interest Case but they disagree that it is necessary to create a new criterion in order for those considerations to be included. The existing proposed criteria can cover the same concerns-

- organisational capability (addresses whether a department has, or is not able to obtain, the necessary grant of power or exemptions);
- independence (addresses whether there is a need for skilled and expert, independent non-executive board members in a commercial environment); and
- risk (can include 'improved customer service' as a consideration against the principle of 'effectiveness').

It is preferable in advancing transparency, contestability and rigour that the individual elements of the claim for 'commerciality' be identified rather than making a class claim that a commercial mandate is sufficient to meet the threshold. The Reviewers are concerned that a separate 'commerciality' functional-based criterion would lower the 'compelling reason' threshold with the potential for any commercial activity (such as with CBUs) to claim 'commerciality' to justify a non-departmental form. Concerns that departmental decision-making does not allow for quick or substantial decisions or timely commercial decisions relate to organisational capability (existing criterion), organisational performance (a performance, not a threshold, concern), or may be deliberate constraints on the delegation of public power on broader public interest grounds (such as probity processes in procurement of capital assets).

Risk

The risk threshold criteria requires an unacceptable level of risk – in public interest terms (not just financial) - to the State if the activity was to be undertaken by a departmental entity or another existing body.

As Queensland Treasury (S65) noted, a non-departmental structure does not automatically mean that risks to the State will be reduced-

⁵⁹ S45 SEQ Water Grid Manager, p. 2.

As stated in the Treasury document 'Guidelines for the Formation, Acquisition and Post Approval Monitoring of Companies' (September 2005), when a company structure is used 'incorporation should result in decreased risk to the Government, as company membership provides the advantage of limited liability. Although the financial risk to the member agency may be minimised, the overall risk to the State may not be reduced'. That is, while the financial risks may be reduced, the constructive obligations or risks to the State may not be reduced.

Public Interest Case Process

The objective of the Public Interest Case process is to reduce excess bureaucracy and red tape, not to impose more red tape in the quest to reduce red tape. Keep it simple and effective, integrate with existing processes as relevant, maintain an outcomes-focus, and as for all processes subject it to review and continuous improvement.

The Department of the Premier and Cabinet (S78) suggested a Public Interest Case report template and, to ensure no duplication of the new body with other departments, the Public Interest Case could be circulated through the Government's Cabinet Legislation Liaison Officer network with consultation with the Department of the Premier and Cabinet mandatory on the Public Interest Case.⁶⁰ The Department of Local Government, Sport and Recreation (S76) accepted the 'need for including checks and balances' but countered that the creation of any non-departmental body already requires Cabinet endorsement and the proposal to require endorsement of the Public Interest Case by the portfolio Minister and Treasurer, and approval by the Premier, 'may add a further layer of documentation and potential duplication of existing requirements'.

Endorsement by the portfolio Minister and Treasurer, and approval by the Premier, is recommended as a matter of *fact*, rather than as any additional *process* to those already in existence (such as the Cabinet Submission process) that can include the Public Interest Case to achieve the same outcome.

The recommended endorsement and approval requirement-

- is not disproportionate to the possible risks resulting from excess bureaucracy and red tape when bodies are created without scrutiny;
- the frequency of proposals to create new bodies are significantly less than significant appointments frequenting the Cabinet process; and
- assures a whole of government policy and budgetary perspective in proposals to devolve and delegate public power.

However, advisory bodies that do not require Cabinet approval, need not require the Treasurer's approval for their Public Interest Cases on the basis that no remuneration is payable and costs will be minor administrative costs for the conduct of meetings.

⁶⁰ S78 Department of the Premier and Cabinet.

Integration of the Public Interest Case in the existing Cabinet Submission process would achieve consultation with the Cabinet Legislation Liaison Officer network and consequent whole of government check on duplication and synergies that the Department of the Premier and Cabinet suggests, as well as a central review role for the Department of the Premier and Cabinet. Where a Cabinet Submission process does not apply in a particular case, the Department of the Premier and Cabinet should oversee a quick and efficient (electronic) consultation with the Cabinet Legislation and Liaison Officer network prior to the Premier's approval. (To be efficient and economical that consultation should put the onus on the other agencies to advise of any concerns by a specified date, with no follow up expectations).

The Department of Communities (S52) suggested that where a relatively low level of funding and/or low risk bodies were proposed (or reviewed)-

... a 'short form' assessment, possibly in the form of a checklist against the four threshold criteria proposed in the report ... approved by the relevant Minister would ensure the 'why' question is considered without unduly increasing red tape.⁶¹

As the Public Interest Case is a *principles-based* approach to the consideration of whether a non-departmental body should be created (or continued), the detailed or 'short form' nature of a Public Interest Case submission should correspond to the nature and extent of the body in question in order to be persuasive of its merits, on public interest grounds. Where a body appears at the low end of the spectrum of function, autonomy and form⁶² (low degree of risk and low degree of delegated/devolved power) with low if any funding and no remuneration for members, a short form assessment would be entirely appropriate, unless and until the review process required more information in order to be persuasive of its merits.

Public submissions that provided a Public Interest Case in respect of their own bodies accorded with this expectation of a principles-based rather than prescriptive approach. More detailed Public Interest Case public submissions were received by the Reviewers from bodies that were either at the higher end of the spectrum of risk and power or that perceived a greater need to justify their existence, or both.

3.2.3 Sunset or Review

As a matter of principle, all government bodies should be subject to either a sunset clause (a provision for the expiry of the government body) or regular review to ensure the body holds 'contemporary relevance and weight' and remains 'fit for purpose'.⁶³

The initial Public Interest Case process can determine-

- the application and timing of a sunset clause (unconditional clause);

⁶¹ S52 Department of Communities.

⁶² See Figure 6.2 Spectrum of Function, Autonomy and Form in Part A Report, p.56, and in Part B Report, p. 30.

⁶³ Two possible sources of excess bureaucracy and red tape – see pp. 14-16.

- the application and timing of a sunset clause that may be overridden by a prior review in favour of continuing the body (conditional clause), or
- the appropriate period for regular review for the circumstances of the body.

Considerations that should factor into decisions on appropriate review periods include the size of the body and its resources, the nature of its business, opportunities to review prior to the expiry of key governing appointments, and the probability and consequences of adverse risks to the public interest if the body (or its activities) could not be justified.

Sunset or regular review supports the premise that a department is the organisational form of first choice by ensuring that the devolution or delegation of public power remains relevant and effective.

The *Public Interest Map* should be re-applied on review of a body or included in an alternative, more intensive strategic or efficiency review undertaken for another purpose.

The Part B review confirms the warnings in academic and public sector literature⁶⁴ that, over time and in the absence of robust review, non-departmental bodies-

- may have completed their original mission or have evolved their activities to achieve purposes other than those for which they were originally established (and in some cases funded) – a ‘keep feeding the beast’ phenomenon was suggested to the Reviewers on several occasions;
- may be outdated, no longer cost-effective, nor the suitable structure in the changed (and changing) environment in which they are to operate;
- can develop their own constituencies for the sake of ongoing existence;
- may no longer align with the strategic policies or priorities of the government of the day;
- may be duplicative of new and alternative functions or government bodies as the more recent undertakings were established without prior regard to their existence;
- can suffer lack of clarity, or confusion, on respective roles which adversely impact performance, mutual expectations and relationships;
- require a review of the suitability and mix of skills and experience of board members in a changing marketplace or field of endeavour; or
- may have become inefficient, ineffective or uneconomical – as the Charleville Health Community Council (S55) agreed, ‘regular review is necessary to ensure that unnecessary practices are eliminated’.⁶⁵

Regular review also causes the Government of the day to reflect on and renew its own objectives for the body, rather than a review assuming that the original objectives remain unchanged.

⁶⁴ See Part A Report, pp. 25, 27.

⁶⁵ S55 Margaret Wade, Acting Chairperson, Charleville Health Community Council.

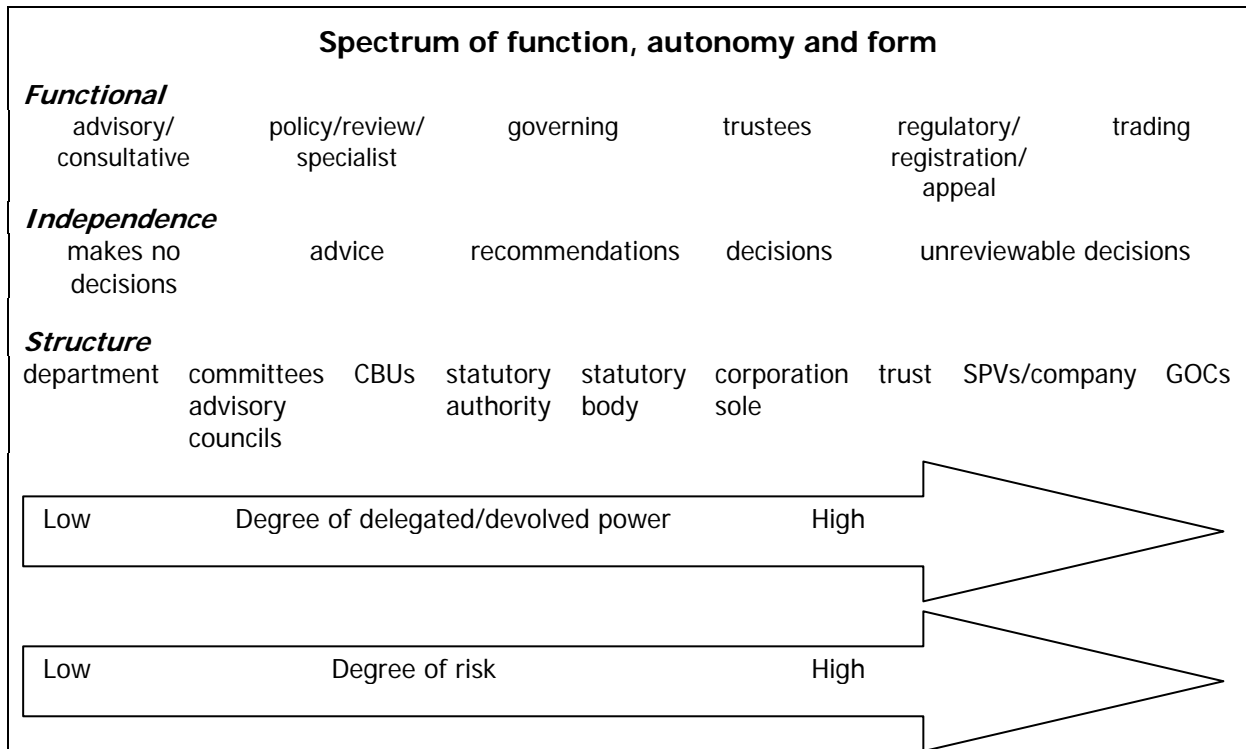
3.3 The Organisational Form Guide

The Part A Report recommended that once the Threshold Test is met by a compelling reason in favour of the creation of an additional body, the *Public Interest Case* continues in order to-

- determine the most suitable form to follow function; and
- observe the preferred hierarchy of form, as contained in the proposed Organisational Form Guide.⁶⁶

Figure 3.2 places the nine organisational forms currently used in Queensland on a spectrum of function, autonomy and form showing *characteristic*⁶⁷ degrees of power and public interest risk.

Figure 3.2



Consistent with the core premises of the *Public Interest Map*, the most acceptable form is the one fit for purpose with-

- least delegated or devolved power (commensurate with fulfilling objective and function);
- typically least risk; and
- enhanced ministerial responsibility.

⁶⁶ Part A Report, pp. 59-60, 66.

⁶⁷ The risk scale concerns a typical broader public interest perspective (not just financial risks). Shelf companies with minimal financial outlay may not necessarily afford a higher degree of risk (see e.g. S83, Department of Infrastructure and Planning) The Public Interest Case process considers risk on a case by case basis.

Appendix E of the Part A Report analysed the form and governance characteristics of the nine current organisational forms, including for departments where relevant.

Although there are form distinctions in Appendix E that enable the various bodies to be subjected to the analysis according to the spectrum in Figure 3.2, some bodies such as commercialised business units and advisory committees are technically legal parts of departments. Statutory authorities are separate legal entities but are parts of departments for the purposes of the State's financial accountability legislation.⁶⁸

It was evident in the Part B review process, including the public submissions, that an Organisational Form Guide would be a 'welcome' instrument of 'great assistance' for departments and bodies alike. A number of public submissions sought additional detail to be included in the Organisational Form Guide to assist departments and bodies to better understand, and then determine, suitable form choices in an area which is currently poorly understood across the sector.

Few stakeholders in consultations understood, or agreed on, the distinction between statutory authorities and statutory bodies. The distinction is a significant one (see section 3.3.2, pp. 39-41). A number of stakeholders indicated that little was understood about statutory authorities or statutory bodies 'these days' by public servants or their legal advisors, which was one reason why company forms were now preferred (see section 3.3.5, pp. 42-50).

The Part B review confirmed that typically when a body takes the name of an alternative organisational form, it can create a misapprehension of the body's actual powers and responsibilities. The Part A Report recommended-

There should be less confusing and more accurate nomenclature once a form has been determined, including-

- the use of 'Board' in a body's name should be reserved for those governing entities that are in legal fact boards of a statutory authority, statutory body, company or a government owned corporation; and
- the use of the word 'Trust' in the title of bodies that are not such should be reconsidered.⁶⁹

Appendix A which sets out the recommended *Public Interest Map* includes the proposed Organisational Form Guide which has been revised to include more detail, as requested. Further discussion and detail is also provided below, with the exception of commercialised business units and Government Owned Corporations (GOCs) under the *Government Owned Corporations Act 1993* which are excluded from the Review's terms of reference.

⁶⁸ *Financial Administration and Audit Act 1977* (to be replaced by new Financial Accountability legislation).

⁶⁹ Part A Report, p. 66.

3.3.1 Committees and Councils

Committees are advisory or consultative in nature on specified areas of interest.

The term 'Council' is usually reserved for-

Forum for established stakeholder representatives (e.g. peak bodies). Strong tool for ongoing dialogue with or without specific issue focus to draw together...Legitimises formal relationships between government and established policy community.⁷⁰

Both committees and councils are legally part of the portfolio department and subject to departmental accountability requirements⁷¹ and departmental Codes of Conduct under the *Public Sector Ethics Act 1994*.⁷²

Some committees/councils are called a 'Group' or a 'Forum'. Others are called a 'Board' which is not recommended due to the potential for confusion in role, responsibilities and powers.⁷³

Some committees may be formed for short-term objective(s) as a coordination committee to facilitate policies, plans or projects within and across portfolios.⁷⁴

The Part B review considered 187 advisory/consultative bodies and determined six themes of concern in public interest terms:

1. Excess structures or duplicated networks

Some portfolios individually, or collectively with other portfolios, invite the same members (or a common core of membership) to sit on a number of separate bodies at the same time advising or being consulted on the same industry or endeavour but in relation to different topics. Dysfunctional consequences include membership frustration leading to reluctance to serve on committees, or delegation of membership responsibilities to a representative on an ongoing basis, or simply a repeated failure to attend.

Depending on the circumstances, a more effective model would see one advisory/consultative body of that common membership addressing a wider agenda. Cross-portfolio issues and the interconnectedness of public policy deliberations should not suffer the opportunity cost of being constrained by a process or precedent that asserts that ministers require their own separate advisory bodies. Another solution might see a wide pool of membership from which meeting attendees are invited according to the relevance of the agenda set down for the next meeting.

⁷⁰ Department of the Premier and Cabinet, *The Queensland Policy Handbook*, Queensland Government, 2000, p. 5.2.3.

⁷¹ Such as the *Financial Administration and Audit Act 1977*, *Public Service Act 2008*.

⁷² Unless, by exception, a specific Code of Conduct has been approved for that body.

⁷³ See also Part A Report, p. 56 and Appendix F, p. 90; Part B Report, p. 31.

⁷⁴ Department of the Premier and Cabinet, *Welcome Aboard: A Guide for Members of Queensland Government Boards, Committees and Statutory Authorities*, Queensland Government, July 2002, p. 2.3.

Another concern in public interest terms was that some committees or reference groups effectively duplicate community or private sector existing network structures and memberships where alternative, more innovative or integrated consultation mechanisms might be more efficient.

Consultation mechanisms that are an effective alternative to the traditional advisory committee would also obviate the need for an additional body to be formed. This prospect should be addressed by the Threshold Test in the Public Interest Case requiring a compelling reason why the department can not, or should not, undertake the consultation activity.⁷⁵ The fourth threshold criterion applies only to *essential* public participation and consultation and is borne of the public interest considerations in favour of plurality of advice to decision-makers, community engagement and equitable access to government decision-making – but only when those public interest objectives can not be met by alternative, reasonably available methods in lieu of an additional body. The Part A Report said-

Facilitation of a greater degree of public participation in government activity or better and more diverse access to government decision-making (enhancing the political process) may justify the creation or continuation of a body outside the traditional departmental structure. However, the degree of this advantage needs to be essential and superior as tested against contemporary alternatives in relevant community engagement practices and consultation mechanisms. That is, can the objective of inclusivity in government be achieved similarly by another way or through another entity?⁷⁶

The Queensland Policy Handbook identifies a range of consultation methods and their benefits available to departments.⁷⁷

As part of the Queensland Government's *Get involved*, the 'Engaging Queenslanders' series of guides, are designed to provide practical advice and information for community engagement practitioners. Specifically, *Community Engagement in the Business of Government*⁷⁸ encourages that in order to improve community engagement, agencies should assess current practices including examining the range of mechanisms and their functions, values and effectiveness. This includes the role of advisory boards and committees, specifically-

In assessing agency engagement practice, consideration should be given to activities and programs relating to all levels of engagement — information sharing, consultation and active participation.⁷⁹

⁷⁵ See pp. 21-29.

⁷⁶ Part A Report, p. 55.

⁷⁷ Department of the Premier and Cabinet, *The Queensland Policy Handbook*, Queensland Government, 2000, 5.2.2 – 5.3.

⁷⁸ *Engaging Queenslanders: Community engagement in the business of government*, Department of Communities, pp. 8-9, 29-30, 32-36.

⁷⁹ *Engaging Queenslanders: Community engagement in the business of government*, Department of Communities, p. 8.

2. Appointment process costs and vacancies carried

A common complaint received by the Reviewers through the Review's online survey of chief executive officers and board members conducted in September 2008 was the pattern of delay, in some cases significant delay, experienced by members in appointment and reappointment processes. One survey respondent in the key management role for the body advised that she had resigned from the body in frustration at the chronic recruitment and appointment delay problem.

Another survey respondent complained that there were, 'significant delays in recruiting and then appointing to member vacancies of up to eight months or more in filling of member vacancies'.

Several departments and bodies highlighted to the Reviewers that they were experiencing considerable difficulty in recruiting suitable members, especially in regional areas and thus were carrying long term vacancies on bodies. The Review found that in some cases successive reappointments of the same members was also a function of the same problem: an inability to recruit new members.

The first question which must be addressed in response to this problem is whether the body is the right mechanism to achieve the stated goals. An objective consideration of the alternatives in doing business a different way may be due.

Departments should also set a trigger to monitor vacancies which exist for a period greater than six months. The circumstances may call for the Public Interest Case that first justified the creation of the body to be revisited.⁸⁰

At least one (S23) public submission complained of the process burden and resultant cost to the public purse in making government appointments to advisory bodies-

Centralised control of the appointment of advisory councils also imposes bureaucracy and costs. The Cabinet handbook requires government ministers to seek Cabinet approval for **all appointments** of committee or board members 'who in connection with their role on a body receives remuneration of any type from government funds'. This seems very much the 'one size fits all approach' that the [Part A] report notes (p.30) has been rejected by the OECD.

...

Directives in the Cabinet Handbook, reflected in departmental guidelines and processes, impose complex and time-consuming procedures each time Council members are appointed/re-appointed...

...

This approval process has imposed an oppressive bureaucratic burden on this Division, requiring about 50% of the resources of one government officer overseeing the process, as well as significant allocation of time by the relevant

⁸⁰Parliament of South Australia, Statutory Authorities Review Committee, *Survey of South Australian Statutory Authorities*, (Eighth Report) 1995-96, p.54: recommended that mechanisms should be established to monitor vacancies which exist for a period greater than six months.

Manager, Director, Divisional Executive Director, Cabinet Liaison Officers, Department Executive Service Unit, Director-General, DEIR, DPC and other departments, Ministers and the Premier. The total value of this time allocation can only be guessed, but salary costs for the various parties involved in the process would almost certainly exceed \$50,000. In the case of the Queensland Sustainable Energy Council (QSEAC), **the real cost of the reappointment process would exceed – by a factor of ten – the total remuneration paid to Council members during each term of the Council.**

The Reviewers agree.

Appendix C provides a long, but not necessarily complete, summary of the process for appointments to Queensland Government bodies. Of course, for appointments to *significant* bodies at the mid-higher end of the spectrum of power and risk (see Figure 3.2) a high standard of scrutiny and approval of the nominees to be entrusted with public powers and/or expenditure of public monies is appropriate. The costs can be justified on public interest grounds. Indeed, the community expects a rigorous process as past examples of adverse media reporting suggest when there have not been adequate checks and balances.

However, for the consultative/advisory bodies under review that are subject to Cabinet and/or Governor in Council approval processes-

- **actual costs** (e.g. human resources who are allocated to perform the processing functions);
- **off-budget costs** (e.g. processing time and resources for other areas in the processing chain such as the contact officer in the body if there is one, Cabinet and Executive Council secretariats, the Office of the Governor); and
- **opportunity costs** (for the loss of frustrated good members; time that could have been spent on other public services by departmental management that sign through the Cabinet and Executive Council paperwork in the Department of the Premier and Cabinet and the line department; and the extent of approval processing for Ministers, the Premier and the Governor),

are **disproportionate to risk, exceed reasonable requirements** in support of individual Ministerial responsibility and the collective responsibility of Cabinet, and therefore **do not advance the public interest**. (*Excluding* opportunity costs, the actual costs and off-budget costs for a single Governor in Council appointment process is estimated at up to \$50,000.⁸¹)

The Reviewers' concern relates to the additional approval processes, not the probity and suitability checks nor the policy requirements for enhancing diversity of community representation in appointments which forms part of the nomination as distinct from the approval process.

⁸¹ Appendix C.

The responsible Minister alone, amongst an already busy ministerial schedule, would handle essentially the same content in appointment approval *paperwork* at least seven times (to sign off the initial nomination letter to the Premier, then the draft and final Cabinet Submissions, the Executive Council Minute, consider the Cabinet briefing notes on the appointment in the Cabinet Bag, consideration at Cabinet (and subsequently at the Executive Council meeting if that Minister attends), signature of appointment letters).

The Reviewers recommend that appointments to all advisory/consultative bodies (including ministerial advisory committees) should be approved by the responsible Minister. This would delete seven of the additional steps as above leaving just the intra-portfolio nomination and approval process. In the usual course of ministerial business, a Minister can call for advice from a range of sources relevant to the Minister's portfolio. The difference with the committees is one of form, not substance. The Minister should write to the Premier to advise of the appointments made. This correspondence should be receipted in the Premier's department in the usual course which facilitates support to the Premier in maintaining a whole of government account of public sector governance. (The Reviewers noted in the review that not all ministers were taking ministerial advisory committee appointments through Cabinet in any event despite current requirements. There should be consistency of process across portfolios.)

The Reviewers recommend that Policy Councils should be included and approved by the responsible Minister (or relevant portfolio Ministers jointly if applicable), even if they are remunerated (see below). The overall cost of remunerating membership would have been approved in the body's creation process already (Public Interest Case: Minister(s), Treasurer⁸², Premier, and Cabinet Budget Review Committee and/or Cabinet if required). Under government remuneration guidelines, remuneration for an advisory/consultative body is typically at the low end of the scale. The remunerated amounts are well-below ministerial expenditure delegation levels (and those of middle-ranking public servants for that matter).

By exception, the Premier can specifically require the appointments of a particular advisory body be submitted for Cabinet approval – this is consistent with the notion that 'one size does not fit all' and accepts the prerogative due to the Chair of Cabinet.

The Reviewers also recommend that the appointment *process* for all the other (non-advisory) bodies should be as streamlined and efficient as possible according a due regard to public interest risk considerations and the process should be outcomes-focussed (i.e. if the process objective is to notify rather than substantively consider appointees, other mechanisms may suffice without burdening an already time-consuming and detailed exercise).

As for advisory bodies, the appointment *authority* for all *other* government bodies should be no higher than necessary. Appointment by the Governor in Council and/or the Cabinet should be supported by a corresponding level of rigour as appropriate for

⁸² If Cabinet approval was required, see p. 27.

the significance (and risk) of the appointment. These processes are not inherently 'red tape' – they only become 'red tape' when they apply to bodies unnecessarily. The cost is then unjustified.

The Department of the Premier and Cabinet should routinely review the authorities for appointments and the governmental appointment processes from stakeholders' perspectives (including Cabinet Ministers and departments) as part of continuous improvement practices to avoid excess bureaucracy and red tape.

3. Relevance, efficiency and effectiveness

Part B consultations indicated that advisory bodies become a burdensome routine when they are no longer considered relevant or effective. Value for time and money can be doubted by departments as well as for members of the body.

One public submission described part of the threat, thus-

The other element determining the effectiveness of advisory committees is the attitude of the bureaucracy. The bureaucracy needs to be genuine in their dealings with advisory groups.

... better government results from more effective community consultation and I support the concept of advisory committees but they are only as good as the desire of the government agencies to actually listen to and take heed of the advice tendered and do so in a spirit of willing cooperation, not as a result only of government policy that has to be complied with, however begrudgingly.⁸³

A degree of contest and well-directed debate between the department and a portfolio advisory body is healthy but discordant expectations and attitudes should be addressed in avoiding excess bureaucracy and red tape. Regular review of the continued need for bodies (and if not, decisive action to abolish it) is one strategy, good governance arrangements supporting a shared clarity of role and expected outcomes is another. The recommended *Public Interest Map* includes both.

4. Potential or perceived conflicts of interests

Public submissions and consultations contended that the independence of chairs is essential to avoid conflicts of interest with a chair's own company interests. The Reviewers also noted that for many advisory bodies, representatives of industry or sectoral interests were individual business owners/employees rather than representatives by virtue of any ex officio representative capacity or supported by any feedback and engagement mechanisms with the areas they notionally represent. This type of representation has a history of serving government well with diligence and integrity. However, as a *matter of principle for advisory/consultative bodies*,

⁸³ C5 Mr John Sinclair, Honorary Secretary and Honorary Project Officer, Fraser Island Defenders Organisation.

departmental nomination processes should assure a plurality of views to government as well as broad and equitable access to government decision-making by seeking to regularly renew the body memberships, particularly those members who are individual or company players in the subject industry or interest. (Ex officio appointees come with the added scrutiny and renewal process afforded by the bodies in which they hold office.)

This recommendation would also minimise the impact of any possible risks of a conflict of interests together with relevant codes of conduct.⁸⁴

5. Membership size

Some committees/councils have too many members to enable reasonable conduct of an efficient and effective meeting. Advisory committees/councils can afford to have a larger membership than a commercial/trading or governing meeting body, but there is a practical threshold beyond which a membership size is unreasonable.

Conversely, too few members bring into question the need for a body compared with alternative targeted consultation strategies.

The largest membership advisory/consultative body reviewed had 30 members while the smallest membership body is to be constituted by four members. The typical membership size for bodies under review appeared to be between nine and 16 members.

As a guide, Australian research⁸⁵ suggests that the mean size of a governing board is 6.6 although 8 has been described as typical. Although governing boards usually require sufficient membership to accommodate subcommittees, it is reasonable for advisory bodies to be larger due to their different purpose. However, as a general guide memberships greater than 12 would seem unreasonable. If a meeting of 12 is considered on a case by case basis not to be adequate to accommodate all stakeholder interests, then it may be the case that such a meeting body is not the suitable advisory/consultative mechanism.

6. Remuneration

Most, but not all, advisory/consultative bodies are unremunerated. The Reviewers agree that this is appropriate.

However, the Reviewers recommend that *all* advisory committees should not be remunerated. Except for the *limited* instances where professionally qualified expert

⁸⁴ See Appendix A, pp. 18-19.

⁸⁵ In Edwards, M. and Clough, R., 'Corporate Governance and Performance', Issues Paper No. 1 (as part of Australian Research Council Project: *Corporate Governance in the Public Sector: An Evaluation of its Tensions, Gaps and Potential*), University of Canberra, 2005, p.9: 'Eight directors are cited as the upper limit and 6.6 as the mean board size in a study by Kiel and Nicholson. (2003:194). In another study, eight is described as 'typical' (Larker et al., 2004:7), while Leblanc and Gillies note that eight to eleven is viewed as optimal (2004:5). Uhrig reports that six to nine is current good practice in the private sector (2003:96) but goes on to suggest that optimal board size in the public sector may differ from one organisation to another.'

membership of an advisory council essentially provides a service to the government through the professional, scientific or technical expertise it applies to the specific tasks delegated to it (as distinct from a general advisory brief), there is otherwise a potential for a conflict of interest in continuing to be remunerated for views proffered and stakeholder positions held. There is also an increased potential risk of ministerial patronage when advisory/consultative positions are remunerated.

This recommendation anchors the logic of the Reviewers' proposal to streamline appointment approval processes for advisory bodies by requiring ministerial approval only (see pp. 34-37) – remunerated roles would be by exception and limited, if any, and still subject to notice to the Premier (and the Premier's department).

3.3.2 Statutory Authorities and Statutory Bodies

Statutory authorities and statutory bodies are both established by legislation and exercise a degree of flexibility and independence from a government department.

As noted in the Part A Report,⁸⁶ there is a key distinction between the statutory authority form and the statutory body form in the Queensland jurisdiction: a statutory authority does not have control over its own funds. Consequently, the financial and governance arrangements for both entities differ. Statutory bodies are higher on the spectrum of power and risk than statutory authorities and for Queensland it is the term that corresponds more closely with the term 'statutory corporation' used in other Australian jurisdictions.

Under section 5 of the *Statutory Bodies Financial Arrangements Act 1982*-

A statutory body is an entity established under an Act that—

- (a) has control of funds and consists of only 1 person appointed under an Act; or
- (b) has control of funds and has, or may have, at least 1 member appointed under an Act; or
- (c) has funds, or from time to time may have funds, and even though it does not have any members appointed under an Act, its decisions are made, or its funds are controlled, by—
 - (i) another person appointed under the same Act; or
 - (ii) another entity established under the same Act that has, or may have, at least 1 member who is appointed under the Act; or
- (d) is a corporation sole constituted by a Minister, or the chief executive or an officer of a department; or
- (e) is a local government; or
- (f) is declared under the Act to be a statutory body for this Act.

A regulation may also declare an entity to be a statutory body (s.5(3)). A number of entities are declared not to be statutory bodies (s.6).

⁸⁶ Part A Report, p. 56.

Essentially, a *statutory body* is an entity that-

- is established under an Act (i.e. its enabling legislation);
- has control of funds; and
- includes, or whose governing body includes, at least one member who is appointed under an Act (or whose appointment is confirmed) by the Governor in Council, or a Minister.

A statutory authority generally satisfies the first and third criteria (i.e. established under an Act, and Governor in Council or Ministerial appointment/confirmation). However, because a statutory authority does not control its own funds, it can not, of its own accord, enter into contracts and pay expenses or exercise any of the other banking, borrowing, investment powers or other financial arrangements for which provision is made in the *Statutory Bodies Financial Arrangements Act 1982*.

The primary legislation applicable to statutory bodies is its enabling legislation, the *Financial Administration and Audit Act 1977*, the *Financial Management Standard 1997*, the *Statutory Bodies Financial Arrangements Act 1982* and the *Statutory Bodies Financial Arrangements Regulation 2007*. Funding of statutory bodies is generally in the form of self-generated revenue and grant funding. Direct appropriation funding from the consolidated fund is not permitted.⁸⁷ Due to the financial powers accorded statutory bodies under the *Statutory Bodies Financial Arrangements Act 1982*, these entities can trade and act commercially.

A statutory body must prepare annual financial statements and have these audited by the Auditor-General, and the annual reports (including financial statements) tabled by the Minister in Parliament annually.⁸⁸

However, as statutory authorities do not control funds or incur liabilities or own assets in their own right, there is nothing for these agencies to report. Any costs in relation to statutory authorities are generally incurred by an 'administering' agency on their behalf (i.e. simply a cost-centre of the 'administering agency'). Typically, the administering agency will be a department although, in rare instances, it may be a statutory body (e.g. Currumbin Bird Sanctuary is a statutory authority administered by the National Trust of Queensland, a statutory body). In addition to the normal reporting of the administering department (or statutory body), statutory authorities may also have separate accountability reporting requirements set out in their enabling legislation. This reporting will generally relate to the actual performance of the authority over the year, rather than a comprehensive general purpose report.⁸⁹

Statutory authorities and statutory bodies offer a distinct choice of organisational form. This distinction should continue.

The different meanings for 'statutory body' in other legislation (e.g. a body might be a statutory body under the *Financial Administration and Audit Act 1977* but not under

⁸⁷ Queensland Treasury, 10 October 2008.

⁸⁸ Under the *Financial Administration and Audit Act 1977*.

⁸⁹ Queensland Treasury, 19 February 2009.

the *Statutory Bodies Financial Arrangements Act 1982*)⁹⁰ is confusing and not helpful in supporting broader understanding and suitability of form choices.

3.3.3 Corporations Sole

A corporation sole is a corporation which is established under its own legislation (not the Commonwealth *Corporations Act 2001*) and where the authority is vested in one nominated office holder, as opposed to typical company structures in which authority is vested in a board of directors. A small number of corporations sole exist in the Queensland public sector (e.g. Queensland Treasury Corporation, the Public Trustee of Queensland, Australian Agricultural College Corporation and Forestry Plantations Queensland – all excluded from the entire *Corporations Act 2001*). For governance and reporting purposes, the enabling legislation of the entity or another authority (e.g. Administrative Arrangements order) generally specifies as to whether it is to be accounted for as a statutory body or a department. Corporations sole are subject to audit by the Auditor-General and policies relevant to departments/statutory bodies apply.⁹¹

3.3.4 Trusts

There are two types of government trusts: trusts created under statute (a 'statutory trust') and trusts created under general law with a trust deed (a 'true trust').

Both of these forms should be options of last resort, the 'true trust' being least favoured as it is at the higher end of spectrum of power and autonomy with least control and transparency for government.

Accountability is governed separately by the *Trusts Act 1973* and the *Trust Accounts Regulation 1999* which provide for the keeping of certain books or accounts and records by trustees, the establishment and management of trust accounts by trustees, and examination and audit of those accounts.

If the objective is to quarantine monies from other operating funds of a department or other body, the **better available options** include:

- Recording funds within the main operational bank account:
Funds are retained in the agency's mainstream bank account but are accounted for in a different cost-centre, and reconciled separately.
- Creating a separate trust bank account (separate from the departmental bank account):

This arrangement suffices for circumstances that require funds to be held in 'trust' for a third party or for a legally required specific purpose. Generally, there would be specific legislative or contractual requirements with which the

⁹⁰ See footnote 1 in s.5 of the *Statutory Bodies Financial Arrangements Act 1982*.

⁹¹ Queensland Treasury, 19 February 2009.

agency would need to comply. The Treasurer's approval is not required to establish bank accounts within the whole of government banking arrangements (if going outside these arrangements, the Treasurer's approval would be required).

The legislation currently allows Accountable Officers and Boards to open bank accounts necessary for the operations of the agency (s.18 of *the Financial Administration and Audit Act 1977*, s. 31 of the *Statutory Bodies Financial Arrangements Act 1982*).⁹²

The recommended Organisational Form Guide identifies two other objectives that may justify a so-called 'trust' arrangement (through the better options above):

- Expert, community or peer judgment independent of government critical but within defined parameters for the benefit of trust beneficiaries.
- For exceptional cases where beneficiaries are publicly regarded as vulnerable and whose interests must be protected financially via a trust account.⁹³

Exceptional cases where public donations are to be received for a specific *charitable* purpose and are tax deductible may require a statutory trust.

Historically, some of the hospital foundations in Queensland experienced difficulty in establishing their taxation status largely because of the nature of their establishing legislation and relationship with the state.⁹⁴

If seeking public donations for a specific charitable purpose, specific attention to the extent of autonomy versus government power and control will be required in establishing a suitable 'trust' arrangement.

3.3.5 Companies

It has been argued that 'public sector companies are often more private than private enterprise, given the paucity of accountability arrangements'.⁹⁵

The Auditor-General of Queensland has confirmed that companies in the public sector present 'an area of governance weakness in the overall accountability framework as it currently exists in Queensland'.⁹⁶

⁹² Queensland Treasury, 17 October 2008.

⁹³ See Part A Report, p. 60; Part B Report, Appendix A, p. 10.

⁹⁴ McGregor-Lowndes, M. and Flack T., *The Border between Government and Charity: A Case Study of Queensland Hospital Foundations*, *Third Sector Review: Charity Law in the Pacific Rim*, Volume 8, No. 1 2002, p. 109.

⁹⁵ Thynne (1994), quoted in Wettenhall, R., 'Public or Private? Public Corporations, Companies and the Decline of the Middle Ground', *Public Organisation Review: A Global Journal* 1: 17-40, Kluwer Academic Publishers, (2001), p. 30.

⁹⁶ Auditor-General of Queensland, Report to Parliament No. 5 for 2007, *Results of Audits as at 31 May 2007*, August 2007, p. 37.

The Queensland Parliamentary Committee of Public Accounts urged a closer relationship between ministers and government companies-

Ministers must understand that they have to bear the responsibility for the actions of these companies in the same way as they bear the responsibility for the actions of their departments.⁹⁷

Academic commentary⁹⁸ has suggested at least six factors responsible for the rise in public sector use of company form-

- *executive flexibility*
Operational advantages due to flexibility and freedom of action concerning materials, personnel, and financial decisions;
- *legislative hurdle (or backlog)*
It is quicker and easier to set up a company than it is to legislate for the more suitable statutory body form;
- *stepping-stone to privatisation*
For privatisation, the company form is a necessary preliminary to the sale of shares in whole or in part;
- *subsidiaries*
Public sector companies establishing (or buying) subsidiary companies;
- *a complex of accountability*
'Few governments like being held accountable to their parliaments, and they discovered not only that it was easier to establish companies but also that, in doing so, they distanced themselves from parliaments';
- *semantic fashion*
The 'New Public Management' approach⁹⁹ has popularised and encouraged private sector forms and practice, leading to the 'inevitable degrading of the notion of the statutory corporation [statutory body]; those with an inadequate sense of administrative history came to see them as little different from departments. The dominant discourse now wants them all to become companies'.¹⁰⁰

A privatisation strategy, where it is proposed that the company at the appropriate time will be sold, is legitimate justification but most of the other factors, although evident in the Part B review, do not justify choice of company form in the Queensland public sector.

⁹⁷ Part A Report, p.57.

⁹⁸ Wettenhall, R., 'Public or Private? Public Corporations, Companies and the Decline of the Middle Ground', *Public Organisation Review: A Global Journal* 1: 17-40, Kluwer Academic Publishers, (2001), pp. 27-30.

⁹⁹ See *Form of Government* discussion, Part A Report, p. 11.

¹⁰⁰ Wettenhall, R., 'Public or Private? Public Corporations, Companies and the Decline of the Middle Ground', *Public Organisation Review: A Global Journal* 1: 17-40, Kluwer Academic Publishers, (2001), p.30.

Policy Guidelines issued by Queensland Treasury in 2005 state that a company structure is-

... most likely appropriate for:

- ventures that require the creation of a separate legal entity (such as Co-operative Research Centres); or
- joint activities with the Governments of other jurisdictions or other public sector entities where a separate statutory body or joint venture structure is not appropriate.

A company structure is not appropriate if the objective is to:

- reduce the transparency and accountability of the use of public funds and assets; avoid the need to comply with legislation and policies e.g. the requirements of the *Financial Management Standard 1997* and the policies that it mandates;
- appease parties external to the Government, which may not be subject to the same governance and accountability mechanisms as a public sector agency;
- avoid the creation of a statutory body, where this structure provides more appropriate governance; or
- shelter a department from risks that would not otherwise be acceptable.¹⁰¹

Yet, two years after the Queensland Treasury Guidelines were issued the Auditor-General noted that 18 new companies had been created in the preceding year and-

... there seems to be an assumption that by establishing a company as opposed to another type of public sector entity, that a different, more private sector attitude to probity and accountability can be adopted. In some cases companies have not been subject to the same high level of governance and accountability mechanisms expected of other types of government entities.¹⁰²

Emeritus Professor Wettenhall (S38) submitted that in the creation and monitoring of public sector companies-

... there is often little or no parliamentary involvement, so that they can easily become mere ministerial playthings... whereas the statutory body can be seen as a middle way between full ministerial management and disinterested management in the general public interest, resort to the company form represents a significant shift away from public sector values and practice towards private sector ones.¹⁰³

¹⁰¹ Queensland Treasury, *Guidelines for the Formation, Acquisition and Post-Approval Monitoring of Companies*, September 2005, pp. 5-6.

¹⁰² Auditor-General of Queensland, Report to Parliament No. 5 for 2007, *Results of Audits as at 31 May 2007*, August 2007, p. 37.

¹⁰³ S38 Roger Wettenhall, pp. 7-8.

Proprietary companies have less onerous reporting requirements than public companies. Public companies¹⁰⁴ are required to apply the full Australian accounting standards whilst large proprietary companies are required to report based on specific accounting standards only, resulting in reduced disclosure requirements.

'Small'¹⁰⁵ proprietary companies have reduced reporting and lodgement requirements compared to both large proprietary and public companies. For example, there is no requirement to produce annual reports or to be audited unless directed to do so (e.g. by parent entity or in the public sector by legislative requirement).¹⁰⁶

To assert that a public sector company is 'self-funding' is not a valid defence to the accountability criticisms. As the recent *Right to Information Report*¹⁰⁷ to the Queensland Government on freedom of information reform argued, transparency is particularly important given GBEs' [government business enterprises] privileged position in relation to access to [publicly funded] capital, cost of capital, and taxation, and other regulatory privileges as compared to the private sector'. Moreover, public sector companies are meant to be more than 'self-funding', they should be *maximising* their returns to the government and the public expects them to be *accountable* for that performance including for any publicly perceived extravagance in the use of public funds or capital.

A 'basic problem' in treating public enterprises as if they were privately owned companies is 'how to mediate the assumptions which lie behind the independent corporate status and board responsibility with those which lie behind continued government stakeholding and ministerial oversight'.¹⁰⁸

The Part A Report discussed this central challenge between independence and ministerial responsibility.¹⁰⁹

In contesting whether a 'grey zone' exists between the public and private sectors as it relates to a government-owned company, Justice Finn asks 'whose interests do a corporation – and hence its directors – serve?'

The equally obvious answer to my 'who' question is again the public. But here formalists tend to obscure matters by attempting to erect legal fictions – by attempting to breathe life into that mystical notion of corporate personality. The directors, they say, are bound to act in the interests of the corporation or company. But to say this, I venture, is to say precisely what I am saying but

¹⁰⁴ Queensland public sector does not have any public listed stock exchange companies.

¹⁰⁵ A proprietary company is 'small' if it meets two of the following: consolidated gross revenue (incl. subsidiaries) is <\$25m; consolidated gross assets at the financial year end (incl. subsidiaries) is <\$12.5m; <50 employees (incl. subsidiaries) Lipton, Philip and Herzberg, Abe, *Understanding Company Law*, 13th ED, Lawbook Co., Sydney, (2006), p. 71

¹⁰⁶ Lipton, Philip and Herzberg, Abe, *Understanding Company Law*, 13th ED, Lawbook Co., Sydney, (2006), p.71; and Queensland Treasury, 10 October 2008.

¹⁰⁷ The report by the FOI Independent Review Panel, *The Right to Information – Reviewing Queensland's Freedom of Information Act*, June 2008, p. 82.

¹⁰⁸ Bottomley (1997) quoted in Wettenhall, R., 'Public or Private? Public Corporations, Companies and the Decline of the Middle Ground', *Public Organisation Review: A Global Journal* 1: 17-40, Kluwer Academic Publishers, (2001), p. 30.

¹⁰⁹ Part A Report, pp. 33-41.

in another way: the corporation exists for the public to serve the interest of the public in the arena designated in its corporate mandate. The directors and managers are the instruments of that service.¹¹⁰

The same fundamental reasoning applies to the need to improve governance and accountability in government-owned companies as it does to constrain their creation in the first place.

In the Part B process, the Reviewers found that the justification for *some* of the government owned companies was not clearly substantiated beyond generally framed claims for the bodies to-

- 'act commercially' (which translated to quick decision-making, the benefit of savings in less reporting requirements or government processes, an evident preference for private sector cultural norms and executive flexibility in setting 'competitive' staff remuneration¹¹¹ although Reviewers noted more than once that key company staff had been drawn from the public service in any event);
- 'operate in a commercial environment' (even though some had market power already and it was not clear what the acceptable commercial or trading deficiencies would have been of the statutory body form);
- be 'commercially successful' (as measured against meeting operational plan performance targets – also a public sector governance practice); or
- be 'efficient and effective' (also expected of the public sector; need to distinguish between a performance issue of non-company form versus a structural advantage of company form).¹¹²

Despite these findings in respect of some companies, the Reviewers determined a common sense approach that making a recommendation changing an existing company to the more suitable form would not necessarily achieve the overall aim of effecting savings where, despite form, the company is operating effectively. Such a foundational change mid-course may have a significant adverse effect to existing commercial interests and undertakings. Where this did not appear to be the case, the Reviewers have recommended that the company be sold or wound up (and any ongoing functions transferred to a more suitable entity in the circumstances).

That leaves the two concerns:

1. Better external and internal governance for some existing companies

Unacceptable levels of public interest risks (e.g. accountability, economy, relevance) require controls that are not disproportionate with cost and process burden. Minimum standards in the Good Governance Framework (pp. 50-56) and regular review of corporate/public sector governance and accountabilities provide a reasonable opportunity for companies to address any outstanding

¹¹⁰ Justice Finn, P. – 'The State Corporation' – *Flinders Journal of Law Reform*, Vol.3, No.1, June 1999, p. 4.; Also see similar discussion in *Hughes Aircraft Systems International v Airservices Australia* (1997) 146 ALR 1, 71-77, 85-92, 98.

¹¹¹ See recommendation in Appendix A, p. 18.

¹¹² Part A Report, p. 54.

concerns. The Reviewers also recommend that Queensland Treasury perform a similar monitoring and advice role for public sector companies as they do for Government-Owned Corporations.¹¹³ Subsidiary companies need to account adequately to the parent entity, and through it to the Government, and Parliament.

2. Better control over the creation of new companies

The Reviewers propose-

- A Public Interest Case (applying Threshold Test and Organisational Form Guide) under the *Public Interest Map*.
- Amendment of the Queensland Treasury Guidelines¹¹⁴ to-
 - make it clear that trading in a commercial environment does not of itself require a company form. The standard of 'commerciality' should be expressed in the Guidelines as being in line with the Government-Owned Corporations (GOCs) threshold but, notwithstanding a business case meeting that threshold, there is reason why the company GOC form is not appropriate, at least at that point in time (this will put proponents of company form to a higher standard of proof of commerciality and will consequently narrow the gap (the number of companies) between GOCs and statutory bodies); and
 - include as a reason where company form is appropriate: the path to privatisation of the function and company form is a necessary preliminary to the sale of shares in whole or in part.
- Creation of subsidiary companies require the shareholders' (owners') majority approval (usually the responsible Minister, but may involve joint venture partner(s) if a minority shareholding). Appendix A includes this recommendation in the Good Governance Framework.
- The Parliament, and through it the people, be informed of the government-owned companies (including subsidiaries) that exist, and responsible Ministers be held accountable for the nature and extent of their lists of companies, by a requirement under the recommended Government Bodies Act for those lists to be tabled annually. (Appendix A also includes this recommendation). This will address the difficulties that exist now in identifying all the public sector companies. Transparency, of itself, can be a disincentive for unjustifiable portfolio activity.

¹¹³ Part A Report, p. 15.

¹¹⁴ Queensland Treasury, *Guidelines for the Formation, Acquisition and Post-Approval Monitoring of Companies*, September 2005, pp. 3-4 at 1.2.1.

3.3.6 Board, or no board

The Part A Report recommended that 'adoption of a board model within the organisational form is not to be presumed, but is to be contested and justified'.¹¹⁵ Public submissions and consultations generally agreed with the proposition but sought further guidance on its application.

The core question is: can the board add value?

In the public sector context, an effective board can be a valuable 'buffer' or 'bridge' between management and the responsible minister. But a broader perspective is being sought.

The Reviewers contend that the core question should be answered on a case by case basis. The Reviewers favour an approach that first considers the role and functions of the *body* and the environment or market in which that body is to operate. Second, consider the risks and opportunities, then the roles that a *board* could perform and the extent to which those roles are likely to impact positively on those risks and opportunities. Board roles offer both performance and an independent check and balance. Also, an internal and external focus should be applied. The Reviewers recommend the following tool to consistently, objectively, and transparently assess the need for a board structure (Figure 3.3):

¹¹⁵ Part A Report, pp. 60, 66, also see 'The high-performing board' at p. 27.

Figure 3.3

Board Model Indicator

Indicators of board model value for a specific body	1 (low)	2 (moderate)	3 (high)
Value of public assets over which the body has control, or the size of its (potential) revenue base, or its capacity to expend funds or incur liabilities			
Extent of (public) power and responsibilities granted to the body			
Risk profile (probability and consequence) of the body not fulfilling its objectives/performing its functions (e.g. essential services of water, electricity would be level 3 (high))			
Complexity of the body's mission			
Need for autonomy and independence in the exercise of functions or decisions made by the body (NB. independence is granted by virtue of separate form and extent of powers, board's influence is as protector and advocate for that autonomy and independence)			
Correlation/suitability of proposed board powers with expectations of board role			
Contentious nature of the body's functions, or the extent of discord among stakeholders			
Extent to which a strategic focus is required to achieve the body's objectives (e.g. a compliance regulator with certainty of requirements and measures with little discretion would be 1 (low))			
Extent of incapacity or inappropriateness for a responsible Minister or associated portfolio department to receive direct report from executive management alone			
Need for quality and quantity of specialist or expert judgment, or a diverse range of perspectives and experience, to be available in the stewardship of a body's mission			
Extent to which networking can legitimately promote achievement of organisational goals (e.g. creative or innovative industries where ideas or cross-leveraging advantages can be born or fostered with broader contacts)			

Notes:

- The higher the need/extent indicated, the greater the need for a board model.
- Indicators are broadly in order of criticality (although a case by case examination of a body may weight them differently).
- Board Model Indicator is not prescriptive, rather it is a tool to guide the consideration of the Public Interest Case in determining whether suitability of organisational form requires a board.

The Board Model Indicator is not burdensome. To the contrary, the tool will help to fast-track a focus on the merits of the board model as it applies to a specific body. Answers to these matters should have been identified already in the Public Interest Case thus far, and should not require additional intensive effort. Also, this tool will provide a useful checklist-

- in preparation of the necessary statement of board type, roles and expectations as part of establishing the body under the Good Governance Framework; and

- in identifying the particular skills sets and board composition required in recruiting and selecting board nominees (this will also support the high-performing 'soft' attributes of governance¹¹⁶).

The tool indicates board model suitability; it does not indicate board performance and value of an actual board in practice. That calls for post-set up strategies such as codes of conduct and regular board appraisals as suggested under the Good Governance Framework. As governance experts have said-

... an effective board cannot be bound by the familiar taboos associated with some organisations. The board's role is to question and offer insight into management plans and strategies. This means that individual directors and their boards must be prepared to 'rock the boat'. Rather than sitting passively during rehearsed management presentations, board members should be actively questioning their CEO. This need not be an adversarial process. Rather, directors should be seeking clarification of points they do not understand fully, and expressing any reservations that they hold as a means of opening up dialogue with management. A key feature of effective boards is open information and open dialogue. The responsibility for developing this key resource rests as much with the CEO as with the board itself. Senior management must seek board input and actively encourage the participation of board members in strategic decisions. The real value of a board lies in its ability to look at issues from a different perspective from the management team, and to make its collective knowledge and experience available to the company.¹¹⁷

3.4 The Good Governance Framework

The Part A Report recommended a Government Bodies Act to provide a generic legislative framework for the good governance of the hundreds of bodies that exist outside portfolio departments.

A common and certain set of *minimum* standards, processes and responsibilities for the external and internal governance of these bodies would be a critical first step in providing, and assuring, government, ministers and the public of their value and accountability.

A legislative basis for a governance framework would also-

- guarantee its continuance subject to parliamentary amendment, unlike past examples in Queensland and the Commonwealth where what guidance did exist was not heeded or continued (e.g. Queensland's 1987 *Statutory Authorities Manual* and the RCAGA in 1976 at the Commonwealth level);
- ensure the requirements are transparent and readily accessible to all;

¹¹⁶ Part A Report, pp. 26-27.

¹¹⁷ Kiel, G. and Nicholson, G., *Boards That Work: A New Guide for Directors*, McGraw Hill, Sydney, 2003, p. 105 (references omitted).

- raise the profile and importance of good governance; and
- respect parliament's role in establishing the various bodies and ultimately, in their better scrutiny.

The objective for a generic legislative framework is not to encumber all bodies regardless of their different categories with the same standards. It is not to impose a 'one size fits all' regime. Rather, the aim is for suitable flexibility across specified categories but *within* a category there would be a clear, consistent, visible and readily accessible *minimum* governance framework (that covers more than financial governance arrangements).

Moreover, as the standards in the generic model are *de minima*, government bodies may adopt higher standards if they choose. Consistent with prevailing Australian principles, governing boards ought to still consider and adopt governance standards suitable to their body – but they would need to at least meet the statutory minimum.

If the standards set in the Act establishing the body are higher than the minimum standards set in the generic Act, then the higher standards in the establishing legislation would prevail. The review's recommended generic Act would not override existing governance arrangements for government bodies unless those arrangements were to a lesser standard than those of the generic legislation.¹¹⁸

The Part A Report canvassed good governance principles and practices (pp. 24-32) and recommended an inclusive list of legislative provisions (pp. 61-63). The Part A Report continued that common minimum legislative governance standards, processes and responsibilities would be supported by-

... a policy framework that addresses in appropriate detail the various procedural and policy elements of the threshold test for creation of a new body and review of existing bodies, the organisational form guide, and supplementary guidance for the good governance framework.

Existing and revised policies as required would also complement the new governance decision-making model for Queensland government boards, committees and statutory authorities.¹¹⁹

It is proposed that the policy framework be incorporated into a 'one stop shop' policy manual which is set out consistently with the architecture of the Government Bodies Act. A separate manual should be prepared for each of the six organisational forms. This will ensure consistency within forms, ease of use, and identification of policy gaps requiring attention.

¹¹⁸ Part A Report, p. 61.

¹¹⁹ Part A Report, pp. 63-64.

Submissions

Public submissions 'strongly' supported the generic legislation as recommended.

... strongly supports the development of a generic legislative framework which will default to existing legislation...The current framework where numerous Acts ... are applied inconsistently across government bodies, causes confusion and obfuscation for not only the public but also the staff and Executive of these organisations.¹²⁰

... fully supports the definition of consistent, minimum standards for non-departmental governance arrangements. Within the legislative framework, governance guidelines and manuals will assist the scaling of corporate governance activities and the basis of establishing the reasonable costs for compliance that can in turn be recognised in budget deliberations.¹²¹

The development of whole of government guidelines and manuals, overseen by the enactment of specific legislation as proposed... would assist in the overall improvement of governance standards for non-departmental entities. In particular, it would reasonably be seen as a major step in addressing the current perception of 'reduced' corporate governance requirements for non-departmental entities, and would assist agencies in their interaction with established non-departmental bodies.¹²²

Only one of 95 public submissions disagreed with the Good Government Act recommendation-

A uniform legislative approach may be ineffective, as it may be too broad or large to be truly useful to individual bodies. ...it might prove to be the case that a generic act adds to the regulatory burden without value as it would be difficult for a single piece of legislation to cover the many and varied scenarios which may lead to the formation and intent of a non-departmental body. Whole of government policy documents or establishing act... may be a better source for outlining minimum standards¹²³

The Reviewers disagree. The Corporations Law similarly provides for governance across a range of (company) forms. The Victorian *Public Administration Act 2004* and New Zealand's *Crown Entities Act 2004* also provide effective precedent to the Reviewers' proposal.¹²⁴ Secondly, the *de minima* approach accorded to taxonomy of form in a principles-based piece of legislation, where a body's own better standards would prevail, should obviate irrelevant burden. The Reviewers contend that policy documents have proved inadequate¹²⁵ already. Policy documents would not support

¹²⁰ S37 Library Board of Queensland, p. 2.

¹²¹ S36 Queensland Water Commission, p. 2.

¹²² S83 Department of Infrastructure and Planning, p. 2.

¹²³ S76 Department of Local Government, Sport and Recreation, p. 2.

¹²⁴ See Part A Report, p. 61 (esp. note 178).

¹²⁵ See Part A Report, p. 61.

certainty of ongoing authority, nor the standard of transparency, accessibility and compliance that would be assured by an Act of the Parliament. It would also be appropriate for the *Parliament* to debate and set the minimum standards in respect of its bodies. The Reviewers add that to leave the governance standards to enabling legislation has not been a successful strategy to date in providing for consistency of expected outcomes in public sector governance for non-departmental bodies and in dealing with the challenges described in Part A and Part B; not all bodies are enabled by legislation; and the Government and Parliament's time and resources would be better spent drafting, debating and producing enabling legislation for statutory entities that address governance matters by exception rather than repeating the full range of matters on each occasion for all bodies.

Some public submissions supported the Good Governance Framework and cautioned that it-

... would need to ensure that smaller entities are not burdened with requirements that are disproportionate to the scale of their operations and risks.¹²⁶

The Reviewers agree, but with the counter-caution indicated by the Auditor-General (S60) that weak controls for bodies that are low risk and low value in terms of their revenue and expenditure exposes them to opportunities for fraud, misappropriation or corruption. The Threshold Test would have tested whether the body is of sufficient size to accommodate an appropriate level of governance in the first instance. The need for balance would then be guided by the proposed legislative schema whereby minimum standards relate to form type (e.g. advisory bodies would not have the same extent of governance requirements as a government-owned company).

Queensland Treasury (S65) submitted that the greatest risk of financial governance were the 'non-GOC companies, primarily special purpose vehicles'-

While these bodies do prepare annual financial statements, and these are audited by the Queensland Auditor-General (when controlled by a department or statutory body), other governance arrangements in the [*Financial Administration and Audit Act 1977* and the *Financial Management Standard 1997*] do not apply. For example, companies do not need to table annual reports in Parliament and no approvals are required for these bodies to invest or borrow funds. Treasury supports the development of appropriate additional governance arrangements for these bodies.¹²⁷

As the Part B review details, Special Purpose Vehicles can have annual expenditure budgets over \$450m, or asset values greater than \$1bn. It is of not insignificant concern that Queensland Treasury currently (and separately the Auditor-General previously¹²⁸) nominate these bodies as exposed to financial governance risks. This

¹²⁶ S39 Scenic Rim Rivers Improvement Trust, p. 3.

¹²⁷ S65 Queensland Treasury, p. 3.

¹²⁸ See Chapter 6.

is so despite, as the Part A Report acknowledged, the recent development of governance material for Special Purpose Vehicles.¹²⁹

The Government Bodies Act would set out governance standards for government-owned companies (where those standards do not already appear in the *Financial Administration and Audit Act 1977* and the subordinate Standards). The Reviewers recommend consistent with their recommendations on the raised suitability threshold for companies (see p. 47) that government-owned companies should have *equivalent governance requirements to company GOCs*. At the least, all non-GOC public sector companies should be required to provide annual reports for tabling in the Parliament by a portfolio Minister. The basic provision of annual reports would 'enable an assessment of the ongoing efficiency of the company's operations and the relevance of the company structure'.¹³⁰ This is consistent with public interest risks and public expectations of propriety and probity (see pp. 46-47) and closes the loophole in legislative governance standards for commercial entities between statutory bodies and GOCs.¹³¹

The Reviewers propose that special provision should be made in the new Government Bodies Act to accommodate the special governance arrangements to which Universities are already subject. Universities are a unique class of State statutory bodies as most of their funding (and policy direction) comes from the Commonwealth. National Governance Protocols apply broadly to the make up and functions of university governing bodies. There are also nationally agreed conventions on the extent of their commercial powers under enabling legislation.

The Reviewers propose that the Government Bodies Act consolidate all relevant pieces of legislation into the one Act, with but two exceptions: the proposed Financial Administration Act (to replace the *Financial Administration and Audit Act 1977*¹³²) and the *Public Service Act 2008*. However, both the excepted Acts should be cross-referenced (noted) in the new Government Bodies Act and the new Act must not create any inconsistencies with the excepted legislation. The *Statutory Bodies Financial Arrangements Act 1982* that applies to statutory bodies currently should be incorporated into the new Government Bodies Act and then repealed.

Whilst it is well beyond the scope of this review to draft the detail of the minimum standards for the Government Bodies Act, the Reviewers offer a series of recommendations as noted in the consolidated form of the *Public Interest Map* in Appendix A (including on boards and 'public interest', clarity on respective roles and responsibilities, and staff remuneration). Beyond that already discussed in the Part A Report (and in this Report's Appendix A), two other matters bear specific consideration: role of Parliament and public servants on boards.

¹²⁹ Part A Report, pp. 50 and 64: *Special Purpose Vehicle Governance Framework and Guidelines*.

¹³⁰ S65 Queensland Treasury.

¹³¹ Spectrum of Form, Function and Autonomy, Figure 3.2, p. 32.

¹³² See pp. 40-41 for recommendation that the inconsistencies between the meaning of 'statutory bodies' in the *Financial Administration and Audit Act 1977* and the *Statutory Bodies Financial Arrangements Act 1982* be remedied.

3.4.1 Role of Parliament

Statutory authorities, statutory bodies, statutory trusts, corporations sole and even some advisory bodies are all creatures of Parliament. Parliament distributed their share of public power. Parliament can review their expenditure of public funds. Parliament can call a responsible minister to account for their performance.¹³³

Parliament is however, ultimately responsible for *all* public sector bodies and should accord to itself the means by which it can oversight their performance, subject them to scrutiny and, when it is called for, protect them from the Government of the day.

The creation of a statutory body creates a three-way relationship between parliament, the government, and the statutory body, and if governments are not prepared to accept that they are being deceitful in resorting to the statutory body format...¹³⁴

Queensland Treasury agreed that Parliament should provide an 'overarching monitoring and scrutiny role' for *all* non-departmental government bodies-

... under the financial management framework, all departments (including commercialised business units and statutory authorities), statutory bodies and Government-owned corporations (GOC) must table annual reports in Parliament, outlining financial and non-financial performance. The greatest risk lies with non-GOC companies (special purpose vehicles), which are generally not required to table annual reports in Parliament, even though they are reliant on public moneys for their establishment and possibly in their on-going operation.¹³⁵

The Government Bodies Act should redress these current deficiencies in external public sector governance.

Emeritus Professor Wettenhall (S38) who has studied non-departmental bodies for around 30 years, observed-

... a good government act of the sort you propose will gain a degree of broad parliamentary involvement. The challenge will always be to ensure that parliamentarians exercise ongoing interest in how it is applied, being ready always to blunt government actions that are designed to spoil its good intentions.¹³⁶

3.4.2 Public Servants on Boards

A public servant's first duty as an employee is to their Minister and to the government of the day through their departmental chief executive. The first

¹³³ Part A Report, pp. 41, 62.

¹³⁴ S38 Roger Wettenhall, p. 7.

¹³⁵ S65 Queensland Treasury, p. 6.

¹³⁶ S38 Roger Wettenhall, p. 7.

duty of a board member of a statutory body is to work to achieve the statutory interests of the entity. There is potential for these two duties to be at odds with each other when a public servant serves as a board member.¹³⁷

In New Zealand, Ministers can not appoint public servants to statutory bodies by Cabinet's direction, except in special circumstances (improving board performance, capacity building (equity considerations), capitalising on experience (retiring public servants)).

Western Australia treats the risk differently by requiring that the reasons for appointing a public servant to a board be put in writing and made public. Codes of conduct and ready access to conflict of interest references provide support to the public servants on boards.

Queensland policies¹³⁸ relate to-

- remuneration providing that public servants generally will not receive additional remuneration for public sector board memberships; and
- the technical capacity in which the public servant is appointed (by name or ex officio).

Public submissions¹³⁹ generally supported public servants on boards for Queensland. One suggested though that 'the same public servant should not continue that role term after term. It may become a cosy 'country club' arrangement'.¹⁴⁰

Queensland Treasury (S65) identified the following instances when it would be practical or beneficial for a public servant to be on a government board-

- to ensure that the body operates within the Government's overall strategic direction;
- to work collaboratively with other bodies on cross-agency initiatives;
- Treasury officers may be involved to oversight the Government's financial investment and any potential liabilities; or
- the public servant may have expertise or technical knowledge on a particular issue.

The Department of the Premier and Cabinet added that circumstances may also exist where a board is responsible for 'issues which impact directly on the public sector. As the board's decisions will impact on public servants, it could be considered appropriate to appoint one or more public sector representatives to that board'.¹⁴¹

¹³⁷ New Zealand Government, Cabinet Office circular *CO (02) 5, Appointment of Public Servants to Statutory Boards*, p. 3.

¹³⁸ Remuneration of Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities (Department of Employment and Industrial Relations); Welcome Aboard: A Guide for Members of Queensland Government Boards, Committees and Statutory Authorities (Department of the Premier and Cabinet); The Queensland Cabinet Handbook, section 5.1.7 (Department of the Premier and Cabinet).

¹³⁹ S40 Wet Tropics Management Authority; S51 Office of Aboriginal and Torres Strait Islander Policy, Department of Communities; S57 Burdekin Shire Rivers Improvement Trust; S65 Queensland Treasury; S66 Arthur Devin; S78 Department of the Premier and Cabinet; S83 Department of Infrastructure and Planning.

¹⁴⁰ S66 Arthur Devin.

¹⁴¹ S78 Department of the Premier and Cabinet.

The Reviewers agree these instances are appropriate.

The Reviewers would caution against the use of ex officio appointments for the purposes of informing the portfolio Minister of the deliberations and actions of a board. Firstly, the expected channels of communication between the Chairperson of the body and the Minister should not be affected by a public servant's presence on the board as a director (or at board meetings as an ex officio observer).¹⁴²

Secondly, this scenario would require the public servant to manage actual or perceived conflicts of interest between responsibility to abide instructions as a public servant and obligations as a board member (or observer). This 'two hats' dilemma is why the New Zealand Cabinet decided *not* to appoint public servants to boards. Both sources may hold a different view of the interests of the body, or the public interest.

The Reviewers recommend that the public servant be appropriately sensitive to the competing interests involved and not adopt a robust manner where board deliberations are reported back as a matter of simple course. To do so not only-

- undermines the chairperson's authority (and role);¹⁴³ and
- works to compromise 'soft' governance factors important for high performing boards such as trust, clarity of roles and information flows,¹⁴⁴ but
- it under-delivers on the more sophisticated beneficial role for the public servant where the public servant uses the board meetings (and ex-meeting, a constructive relationship with the chairperson) to contend for positive outcomes for the board, and the government owner. Having first contended a position, if the public servant then disagrees or remains concerned about a board outcome then the board should appreciate that it is open for the public servant to raise the matter directly to the notice of the Minister should the chairperson or board decline to do so in a timely manner. This course alerts the responsible Minister to concerns *by exception* rather than by routine and it accords the chairperson and board with first notice of the concerns and first opportunity to notify the Minister. The careful exercise of good judgment and professional courtesies will help continue the positive 'soft' attributes for governance. Board codes of conduct should offer guidance for such typical ethical dilemmas. This scenario also illustrates why the Reviewers recommend that public servants should be appointed as full directors in preference to observer status without rights to debate board issues. The other difficulty for public servants as observers might be the risk of 'shadow director' liability.

¹⁴² See 'where the relationship between the Minister and the chairperson becomes superfluous' relevant discussion in Part A Report, p. 27.

¹⁴³ Part A Report, p. 30.

¹⁴⁴ Part A Report, pp. 26-27.

3.5 In review of bodies

The *Public Interest Map* provided the decision-making model for the present review of 459 government bodies in Queensland.

As a decision-making model, it was well-supported during the public submissions and consultations processes and it facilitated a transparent and principled approach to the Part B challenge of ‘reducing bureaucracy and red tape’.

The Part A Report published the draft *Public Interest Map* and invited public comment. Many bodies took up the challenge to self-administer the Threshold Test and the Organisational Form Guide. The Reviewers were very grateful for that assistance.

This Part B Report finalises the Reviewers’ recommendations for a *Public Interest Map* in Recommendation 1 and Appendix A.

RECOMMENDATION 1:

The *Public Interest Map* (as summarised at p. 2 and detailed from p. 4) in **Appendix A** should be adopted by the Queensland Government as the public sector governance model for improving the relevance, economy, efficiency, effectiveness and accountability for non-departmental government bodies in Queensland.

Recommendation 2 addresses supplementary concerns in reducing bureaucracy and red tape, as discussed in chapter 3 (3.3.1 to 3.4.1). Recommendation 2 supports the *Public Interest Map* and is relevant to the review of many of the bodies in chapters 4 to 8.

RECOMMENDATION 2:

2.1

Departments should set a trigger to monitor vacancies which exist for a period greater than six months. A pattern of extended or serial delays in filling vacancies should trigger a review of the body, including revisiting the Public Interest Case for the body to justify its continued existence. (p. 34)

2.2

The authority for making appointments to all advisory/consultative bodies should be the responsible Minister, alone or in concert with a Minister with joint portfolio responsibilities (i.e. not by the Governor in Council and Cabinet), except in specified cases where the Premier instructs that Cabinet is to approve the appointments. In all cases, the responsible Minister(s) should write to the Premier to advise of the appointments made. (pp. 34-37)

2.3

The Department of the Premier and Cabinet should routinely review the authorities for appointments and the governmental appointment processes for all the other (non-advisory) bodies from stakeholders' perspectives as part of continuous improvement practices to avoid excess bureaucracy and red tape. (pp. 34-37)

2.4

As a matter of principle for advisory/consultative bodies, departmental nomination processes should assure a plurality of views to government as well as diverse and equitable access to government decision-making by seeking to regularly rotate new directors into body memberships, particularly those memberships where individual or company interests are held in the body's industry or sector. (pp. 37-38)

2.5

Advisory/consultative bodies with more than 12 members should be reduced to 12 or fewer, or alternative advisory/consultative mechanisms considered. (p. 38)

2.6

Advisory/consultative bodies should not receive sitting fees, except for the limited instances where professionally qualified expert membership of an advisory council essentially provides an expert service to the Government through the professional, scientific or technical expertise it applies to specific tasks delegated to it (as distinct from a general advisory brief).¹⁴⁵ (pp. 38-39)

2.7

The different meanings for 'statutory body' in other legislation (e.g. a body might be a statutory body under the *Financial Administration and Audit Act 1977* but not under the *Statutory Bodies Financial Arrangements Act 1982*) should be remedied in providing one definition for a statutory body in accordance with that which is currently provided in the *Statutory Bodies Financial Arrangements Act 1982*. (pp. 40-41)

2.8

Queensland Treasury should perform a similar monitoring and advice role for public sector companies as it does for Government-Owned Corporations. (p. 47)

¹⁴⁵ This applies to all relevant bodies under review, whether specified or not.

2.9

The *Guidelines for the Formation, Acquisition and Post-Approval Monitoring of Companies*, September 2005 (issued by Queensland Treasury) should be amended to-

- make it clear that trading in a commercial environment does not of itself require a company form;
- express the threshold of 'commerciality' in line with that required for Government-Owned Corporations (GOCs) but recognise that there can be reasons why GOC form is not appropriate at that time; and
- include as a reason where company form is appropriate: the path to privatisation of the function and company form is a necessary preliminary to the sale of shares in whole or in part. (p. 47)

2.10

Public sector companies should have equivalent governance requirements to company GOCs. This would include the requirement for all government-owned companies to provide annual reports for tabling in the Parliament by the responsible Minister. (p. 54)

Finally, in respect of the review of all 459 government bodies reported in chapters 4 to 8 (incl.), the following considerations also apply-

- As a matter of principle, the *Public Interest Map* recommends that all government bodies be subject to either a sunset clause or regular review. This recommendation also applies to each of the 459 bodies in this Review.
- Consequential amendment to legislation or other sources of authority should be taken to be recommended in order to give effect to the Reviewers' recommendations.
- In view of the sheer size of the Review task, the Reviewers have reported on key concerns or issues by exception on their Public Interest Case analysis for each body.

4. Economic

4.1 Commercial

Australian Institute for Commercialisation Pty Ltd

This company advises and assists industry, research organisations and government with commercialisation initiatives for new technology business start-ups. The company was established in 2002 by the Queensland Government (sole shareholder). The Australian Institute for Commercialisation Pty Ltd provides services on a national basis, is recognised as a leading commercialisation service provider and provides policy advice to a number of state governments and the federal government.

The Reviewers do not consider that the second question of the Threshold Test has been met: should the Queensland Government (continue to) undertake this activity? The company has established a successful commercialisation reputation and provides its services nationally and to other governments. It should be sold.

RECOMMENDATION 3:

Australian Institute for Commercialisation Pty Ltd

Sell.

BioPharmaceuticals Australia (Network) Pty Ltd

This company was established in 2007 to oversee the staged development of a contract biopharmaceutical manufacturing facility in response to 'an identified infrastructure and capability gap faced by the Queensland and Australian biotechnology industry at the early pre-clinical and clinical trials phase of the drug development process'.¹⁴⁶ The manufacturing facility will assist biotechnology companies to conduct their small scale manufacturing in Australia.

In addition to the \$10m committed by the Queensland Government as seed funding to facilitate the establishment of this commercially viable facility, a further \$43m has been leveraged towards the cost of building the new facility planned by 2011. Beyond 2011, the company's operational activities will need to be funded from income earned by the facility.

The company form was determined the most appropriate in affording the greatest flexibility in allowing national and international investment and involvement.

¹⁴⁶ Department of Tourism, Regional Development and Industry – Audit Response, September 2008.

The Reviewers questioned whether it should be a public sector rather than a private sector company activity. The 'seeded' activity should now move to private ownership.

RECOMMENDATION 4:
BioPharmaceuticals Australia (Network) Pty Ltd

Sell.

Creative Industries Leadership Group

This advisory body is to assist the department to implement the creative industries strategy *Creativity is Big Business – A framework for the future* by advising the department on industry economic development issues, promoting departmental activities and programs, and encouraging collaborations. The Reviewers are not satisfied that the Threshold Test has been met. These functions can be performed by the department, including consultation when required.

RECOMMENDATION 5:
Creative Industries Leadership Group

Abolish.

CSI Holdings Pty Ltd

This company acts as the primary contracting party for business activities related to CITEC's Commonwealth Government and private sector market. CITEC is a commercial business of the Department of Public Works. In 2006, the then Service Delivery and Performance Commission recommended that CITEC focus on providing services to the Queensland Government and as such, CITEC should honour all existing non-Queensland Government contracts and work cooperatively with non-Queensland clients to wind back the provision of those services. The Department has confirmed that CITEC needs to continue until all existing contractual undertakings expire or are terminated prior to 2011.¹⁴⁷

RECOMMENDATION 6:
CSI Holdings Pty Ltd

Status quo, with the company to be wound up on expiry or termination of all existing contractual undertakings by 2011.

¹⁴⁷ Department of Public Works - Audit Response, October 2008.

Environment Industry Reference Group

This advisory body is to identify regional and international directions in the application of environmental technologies and services, identify emerging opportunities and impediments for Queensland's environmental technologies and services sector. Members are not representatives from associations and other interest groups operating in the environmental industries, six of the ten members are individual business interests in the industry.

The Reviewers recommend that this industry reference group be merged with three other industry advice bodies, namely the Queensland Biotechnology Advisory Council, Manufacturing Leaders Group and the Marine Industries Reference Group. The Reviewers also recommend that members from businesses in the industry are rotated each term to provide for a plurality of views (from government's perspective) and equity of access to government (from businesses in the industry perspective). (see also 3.3.1 Committees and Councils, pp. 37-38)

RECOMMENDATION 7: Environment Industry Reference Group

Merge into a single portfolio industries advisory forum. Members from businesses in the industry should be rotated each term. (see also recommendations 2.4, 12, 13 and 15).

Fibre Composites Forum

This industry-led group 'assists the Queensland Government with the implementation and refinement of fibre composites-related initiatives' by promoting collaboration and ensuring industry input.¹⁴⁸

The Threshold Test is not met. These general functions do not require a separate body from the department to ensure industry input.

RECOMMENDATION 8: Fibre Composites Forum

Abolish.

¹⁴⁸ Department of Tourism, Regional Development and Industry – Audit Response, September 2008.

Greyhounds Queensland Limited

Following corporatisation of its operations in July 2008, the Greyhound Racing Authority was dissolved and Greyhounds Queensland Limited was established as a company limited by guarantee taking over the operations, assets and liabilities of the former statutory body. Greyhounds Queensland Limited is now the independent control body for the greyhound racing industry.

RECOMMENDATION 9:
Greyhounds Queensland Limited

Status quo.

i.lab Incubator Pty Ltd

This company provides support services to technology companies to assist in commercialisation of technology and provides business development services. i.lab provides space, skills, support and mentoring and links companies to venture capital, export markets and other business networks. Its role is similar to the Australian Institute of Commercialisation. Similarly, the Reviewers recommend that the company should be sold.

RECOMMENDATION 10:
i. lab Incubator Pty Ltd

Sell.

ICT Ministerial Advisory Group

This advisory committee provides 'industry input to the Minister to inform ongoing information and communication technology policy direction'.¹⁴⁹ It is to provide a mechanism for advice in relation to the challenges facing the industry, its growth needs and associated issues, particularly those related to implementation of the *Smart ICT: Taking IT to the world industry development strategy*.

The Reviewers understand that the Department of Public Works regularly undertakes industry consultation including through a monthly working group with the same industry stakeholders. Despite different portfolios, these two same industry consultation exercises with same stakeholders should be merged. The Department of Public Works should take lead given the new Queensland Government Chief Information Office role in that portfolio.

¹⁴⁹ Department of Tourism, Regional Development and Industry – Audit Response, September 2008.

RECOMMENDATION 11:
ICT Ministerial Advisory Group

Abolish and transfer functions to the Department of Public Works (Government Chief Information Office).

Manufacturing Leaders Group

Established in 2002, this ministerial advisory committee advises on the ongoing development and implementation of the Queensland Government's advanced manufacturing support framework. There is no period of appointment on membership and at least 12 of the 20 members are individual business interests in the industry.

The Reviewers recommend that this industry reference group be merged with three other industry advice bodies, namely the Queensland Biotechnology Advisory Council, Environment Industry Reference Group and the Marine Industries Reference Group. The Reviewers also recommend that members from businesses in the industry are rotated on a term basis (i.e. not unfixed periods of appointment) to provide for a plurality of views (from government's perspective) and equity of access to government (from businesses in the industry perspective). (see also 3.3.1 Committees and Councils, pp. 37-38)

RECOMMENDATION 12:
Manufacturing Leaders Group

Merge into a single portfolio industries advisory forum. Members from businesses in the industry should be rotated on a term basis. (see also recommendations 2.4, 7, 13, 15).

Queensland Biotechnology Advisory Council

This advisory role assists with the strategic direction and setting the framework for a sustainable and dynamic biotechnology sector. The Minister receives a summary of minutes from each quarterly meeting and any reports prepared.¹⁵⁰

The 2008-09 budget was \$50,000. The thirteen members receive sitting fees.

The Reviewers recommend that this industry reference group be merged with three other industry advice bodies, namely the Manufacturing Leaders Group, Environment Industry Reference Group and the Marine Industries Reference Group. (see also

¹⁵⁰ Department of Tourism, Regional Development and Industry – Audit Response, September 2008.

3.3.1 Committees and Councils, pp. 37-38) Membership of an advisory body should not be remunerated (see pp. 38-39).

RECOMMENDATION 13:

Queensland Biotechnology Advisory Council

Merge into a single portfolio industries advisory forum. Membership should not be remunerated. (see also recommendation 2.4, 7, 12, 15).

Queensland Harness Racing Limited

Following corporatisation of its operations in July 2008, the Queensland Harness Racing Board was dissolved and Queensland Harness Racing Limited (trading as Harness Racing Queensland) was established as a company limited by guarantee taking over the operations, assets and liabilities of the former statutory body. Queensland Harness Racing Limited is now the independent control body for the harness racing industry.

RECOMMENDATION 14:

Queensland Harness Racing Limited

Status quo.

Queensland Marine Industries Reference Group

The Queensland marine industry has been identified as a priority sector within the Queensland Government's Manufacturing Strategy, *Making Queensland's Future*. The Smart State Strategy 2005-2015 classified the Queensland marine industry sector as an Emerging Industry.

This advisory body advises the Queensland Government on the implementation and refinement of marine-related initiatives being developed and delivered under the Marine Sector Action Plan.¹⁵¹

Some of the members are individual business interests in the industry.

The Reviewers recommend that this industry reference group be merged with three other industry advice bodies, namely the Queensland Biotechnology Advisory Council, Environment Industry Reference Group and the Manufacturing Leaders Group. The Reviewers also recommend that members from businesses in the industry are rotated each term to provide for a plurality of views (from government's perspective)

¹⁵¹ Department of Tourism, Regional Development and Industry – Audit Response, September 2008.

and equity of access to government (from businesses in the industry perspective). (see also 3.3.1 Committees and Councils, pp. 37-38)

RECOMMENDATION 15:

Queensland Marine Industries Reference Group

Merge into a single portfolio industries advisory forum. Members from businesses in the industry should be rotated each term. (see also recommendations 2.4, 7, 12, 13).

Queensland Small Business Advisory Council

The Parliamentary Secretary to the Minister is Chair of this advisory body comprising individual business operators, industry and business association representatives. The Council responds to requests from the Minister for input on identified small business issues and feedback on proposed small business assistance programs and policies. The Council also brings to the Minister's attention systemic and emerging issues with the potential to affect the ability of Queensland small businesses to operate successfully.

Members are appointed for one year terms, and may be reappointed.

The Reviewers also recommend that members from business operators are rotated each term to provide for a plurality of views (from government's perspective) and equity of access to government (from businesses in the industry perspective) (see also 3.3.1 Committees and Councils, pp. 37-38)

RECOMMENDATION 16:

Queensland Small Business Advisory Council

Status quo, with regular rotation of members. (see also recommendation 2.4).

Red Tape Reduction Taskforce

The objectives of the Taskforce were to advise on regulatory issues of concern to business, identify key issues impacting on regulatory reform, and undertake projects to address these issues from a whole of government perspective. The Department advised that the Taskforce was 'in abeyance and has not met since June 2006'.¹⁵² This body should be abolished and functions transferred to the Department.

¹⁵² Queensland Treasury – Audit Response, September 2008 .

RECOMMENDATION 17:
Red Tape Reduction Taskforce

Abolish.

Smart State Council

The Smart State Council provides independent high level advice to the Premier as Chair (and Ministerial members) on emerging Smart State issues, trends, challenges and opportunities. The Reviewers are advised that the role of the Smart State Council is intended to expand to encompass additional policy strategies.

RECOMMENDATION 18:
Smart State Council

Status quo.

State Procurement Advisory Council

This is an advisory body to raise strategic matters relating to government procurement. Queensland Purchasing (departmental function) undertakes the same functions and can establish other informal processes to engage with the groups and stakeholders as required. The Threshold Test is not met.

RECOMMENDATION 19:
State Procurement Advisory Council

Abolish.

teQstart Pty Ltd

This company was established to-

- facilitate the establishment of early stage high-technology companies underpinning future Smart State industries;
- seed the development pipeline of companies to grow sustainable high-technology industry sectors; and
- leverage additional private sector investment into the State.¹⁵³

¹⁵³ Department of Tourism, Regional Development and Industry – Audit Response, September 2008.

The Department advised-

teQstart Pty Ltd has been effective in achieving these outcomes. The Queensland Government has decided not to commit further funds for investment to teQstart Pty Ltd. As such, the Queensland Government has decided to undertake a divestment process that may lead to private sector ownership of teQstart Pty Ltd.¹⁵⁴

RECOMMENDATION 20:

teQstart Pty Ltd

Sale of this company is supported.

Wine Industry Development Strategy Steering Committee

The Committee principally provides a forum to discuss implementation of the Wine Industry Development Strategy. The Strategy is scheduled to conclude on 30 June 2009, the Committee should sunset by that time also.

RECOMMENDATION 21:

Wine Industry Development Strategy Steering Committee

Abolish.

4.2 Financial

***Breakwater Island Casino Community Benefit Fund
Gambling Community Benefit Committee
Jupiters Casino Community Benefit Fund
Reef Casino Community Benefit Fund***

The Committee which oversees the Gambling Community Benefit Fund makes grants all over Queensland. Grants from the other three Funds are regionally specific but collectively also cover the State.

A 2006-07 Audit program review recommended a consideration of 'the practicalities of formation of a single Committee to govern the administration of grants; and costs versus benefits of having the Gambling Community Benefit Fund and the Jupiters Casino Community Benefit Fund managed outside of Queensland Office of Gaming Regulation.¹⁵⁵ Queensland Treasury advised that the administration functions for

¹⁵⁴ Department of Tourism, Regional Development and Industry – Audit Response, September 2008.

¹⁰ Queensland Treasury: Office of Gaming Regulation (OGR) Grants Review 2006-07.

three of the four Funds are already centralised, with the fourth to be included in the near future. There would be little, if at all, to be saved by undertaking a process to achieve amalgamation of Funds.

RECOMMENDATION 22:

Breakwater Island Casino Community Benefit Fund

Gambling Community Benefit Committee

Jupiters Casino Community Benefit Fund

Reef Casino Community Benefit Fund

Status quo, with the administration of the four Funds centralised and shared.

Motor Accident Insurance Commission

The Commission is responsible for the regulation and ongoing management of Queensland's Third Party (CTP) Insurance Scheme and the Nominal Defendant Fund. With the financial risk for underwriting insurers and their concerns, the scheme was designed to have government remain at arms length from its processes.¹⁵⁶

The Reviewers agree that the Public Interest Case is well made-

A level of independence from government is seen as a critical requirement for CTP insurers when underwriting the CTP insurance product within the premium bands set by the Commission. This independence is also important for maintaining a viable CTP scheme for all stakeholders by maintaining a balance between an affordable and fully funded scheme.¹⁵⁷

RECOMMENDATION 23:

Motor Accident Insurance Commission

Status quo.

Nominal Defendant

The Nominal Defendant acts as an insurer where damages are claimed for personal injury arising from the liability of uninsured motor vehicles and unidentified motor vehicles. The Public Interest Case is founded on independence.

¹⁵⁶ Queensland Treasury – Audit Response September 2008.

¹⁵⁷ Queensland Treasury – Audit Response September 2008.

RECOMMENDATION 24:
Nominal Defendant

Status quo.

Queensland Gaming Commission

The Commission is an independent statutory body regulating use of gaming machines in Queensland (licences, hours of use, maximum number). The Public Interest Case supports the necessary independence of gaming regulation.

The appeals function transfers to the Queensland Civil and Administrative Review Tribunal.

RECOMMENDATION 25:
Queensland Gaming Commission

Status quo.

4.3 Industrial Relations

Building and Construction Industry (Portable Long Service Leave) Board

This is an *industry-run* scheme to provide a system of portable long service leave for eligible workers in the building and construction industry.

The Board is chaired by the Director-General of the Department of Employment and Industrial Relations but it has an independent Deputy Chair, three directors representing industry employers, and three directors representing industry workers.

This body also collects the Workplace Health and Safety Queensland Site Notification fee and the building construction industry training levy.

The Reviewers considered whether the body should be merged with the other portable long service leave board for contract cleaners and determined that case could not be made because-

- both schemes are industry-run, and they are different industries;
- there are functional differences (e.g. training levy collection) which would complicate any merger benefits claimed on account of like functions; and

- there would be minimal if any savings because the staff of the Building and Construction Industry (Portable Long Service Leave) Board already provide the Contract Cleaning Industry (Portable Long Service Leave) Authority with the administrative support services it requires. Both bodies also share the same premises.

RECOMMENDATION 26:

Building and Construction Industry (Portable Long Service Leave) Board

Status quo.

Medical Assessment Tribunals

The Tribunals provide an *independent* and non-adversarial system of medical review and assessment of injury and impairment for which compensation is payable under the *Workers' Compensation and Rehabilitation Act 2003*. The Tribunals were not amalgamated into the new Queensland Civil and Administrative Tribunal due to their 'specialised nature of their deliberations'.¹⁵⁸

Public submission by Q-Comp (S17) also comprehensively established the Public Interest Case citing 11 reasons for the view that there would be an unacceptable level of risk were these functions to be performed within a department.

RECOMMENDATION 27:

Cardiac Assessment Tribunal

Composite Medical Assessment Tribunal

Dermatology Assessment Tribunal

Disfigurement Assessment Tribunal

Ear, Nose and Throat Assessment Tribunal

General Medical Assessment Tribunal

Neurology/Neurosurgical Assessment Tribunal

Ophthalmology Assessment Tribunal

Orthopaedic Assessment Tribunal

Status quo.

Industry Sector Standing Committees

These are the key industry consultative bodies established under the *Workplace Health and Safety Act 1995* to advise and make independent, industry based recommendations to the Workplace Health and Safety Board.

¹⁵⁸ The Honourable Kerry Shine, Attorney General and Minister for Justice – *Queensland Tribunals, Amalgamation* p. 716 Hansard: 12 March 2008.

Under the *Workplace Health and Safety Act 1995*, the Minister should be making the appointments, not the Governor in Council. The members are not remunerated. The enabling legislation provides for at least six members to be appointed per committee. There are currently 82 committee members compared with the minimum statutory requirement for 36. All committees should be less than 12 members each (see p. 38) but in view of the number of committees that report to the separate Workplace Health and Safety Board, membership size should not be at the general recommended maximum of 12 but closer to Parliament's original anticipation of six for each of these committees.

RECOMMENDATION 28:

Construction Sector Standing Committee

Health and Community Services Sector Standing Committee

Manufacturing Sector Standing Committee

Retail and Wholesale Sector Standing Committee

Rural Sector Standing Committee

Transport and Storage Sector Standing Committee

Status quo, except that memberships per committee should be reduced to six each and the *Workplace Health and Safety Act 1995* should be amended accordingly. Non-ex officio appointees should be rotated each term.

Contract Cleaning Industry (Portable Long Service Leave) Authority

This is an *industry-run* scheme to provide a system of portable long service leave for eligible workers in the contract cleaning industry.

The Board is chaired by the Director-General of the Department of Employment and Industrial Relations but it has an independent Deputy Chair, two directors representing industry employers, and two directors representing industry workers. (see also pp. 71-72)

RECOMMENDATION 29:

Contract Cleaning Industry (Portable Long Service Leave) Authority

Status quo.

Electrical Equipment Committee
Electrical Licensing Committee
Electrical Safety Board
Electrical Safety Education Committee

In 2000, the Ombudsman investigated a series of electrocutions in Queensland between 1995 and 1999 (13 fatalities) and made recommendations on workplace health and safety and electrical safety. Many recommendations related to improvements in the quality and coordination of investigations across government regulatory agencies. Following the July 2001 report of the Ministerial Review of the Electrical Safety Office, these three committees were established under the *Electrical Safety Act 2002* as committees of the Electrical Safety Board.

The Electrical Equipment Committee is responsible for providing advice and recommendations to the Electrical Safety Board about the safety of electrical equipment, as well as energy efficiency and the performance of electrical equipment. It is a specialist committee and its membership reflects the range and complexity of electrical equipment and associated safety, efficiency and performance issues.

The Electrical Licensing Committee advises on electrical licences and training, takes disciplinary action, and reviews decisions of the chief executive about electrical licences.

The Electrical Safety Education Committee provides advice and makes recommendations to the Board about the promotion of electrical safety in workplaces and in the broader community.

The Commissioner for Electrical Safety chairs the Board and its Committees. The Reviewers accept that there is a continuing need for the Electrical Safety Board as a source of independent advice to the Minister on policies, strategies and legislative arrangements for electrical safety and to provide 'oversight to the work of the Electrical Safety Office in the elimination of all preventable electrical deaths and in reducing injuries and destruction caused by electricity'.¹⁵⁹

The enabling legislation requires that members of the Board and the Committees must represent employers, workers and the community. Committee members are not remunerated, although board members are remunerated. Membership of advisory bodies should not be remunerated. (see pp. 38-39)

The Electrical Safety Board should not be called a 'Board' which is misleading in that it suggests (to workers and employers for example) that the body has a governing or decision-making role (see Part A Report, p. 56; Part B Report pp. 30-31). As a peak advisory body from an established policy community, the Board should be renamed a 'Council' (and because there are committees already feeding advice into the body).

¹⁵⁹ Department of Employment and Industrial Relations – Audit Response, September 2008.

On the Threshold Test for the three committees, the Department (DEIR) advised-

The functions of the Committee could be performed within DEIR with consultation as necessary with the industry groups represented on the Committee. However, this would be unsatisfactory – time consuming, costly and less well-coordinated than the existing arrangements through the Committee. Further the loss of an independent voice to the Board in an area of critical importance and sensitivity would reduce the effectiveness of electrical safety measures.¹⁶⁰

The Department continued that to merge the functions of the Electrical Equipment Committee in particular with those of the Electrical Safety Board would 'reduce the quality of external contribution and seriously diminish the effectiveness of the government's management of electrical equipment safety'.¹⁶¹

RECOMMENDATION 30:
Electrical Equipment Committee
Electrical Licensing Committee
Electrical Safety Board
Electrical Safety Education Committee

Status quo, except the Board should be renamed a 'Council' and its membership should not be remunerated.

Employment Agents Advisory Committee

This Committee is established under the *Private Employment Agents Act 2005* to advise the chief executive on the content and operation of the code of conduct and on other specified matters on reference from the chief executive. The Committee has not met since February 2007.

The Threshold Test is not met. The functions of the Committee could be performed within the Department in the usual course of its business with consultation as necessary with the industry groups represented on the Committee. There is no demonstrated need for independence through a statutory committee.

RECOMMENDATION 31:
Employment Agents Advisory Committee

Abolish.

¹⁶⁰ Department of Employment and Industrial Relations – Audit Response, September 2008.

¹⁶¹ Department of Employment and Industrial Relations – Supplementary comments 30 January 2009.

Licensing Review Committee

This Committee was established in late 2007 to provide a 'robust', 'transparent', 'quick', 'informal' but independent mechanism to review workplace health and safety inspector's decisions in relation to holders of occupational licences. It is the body responsible for conducting disciplinary hearings and brings the relevant licensing system in line with national health and safety standards as well as consistency of licensing system as for electrical safety.¹⁶² The Committee may also advise the Minister, the Workplace Health and Safety Board or the chief executive on occupational licensing.

Occupational licences holders include scaffolders, doggers, riggers, crane operators, forklift operators, boiler operators, and earthmoving equipment operators.

As at July 2008, the Committee had not met as it is required on an as needs basis.

RECOMMENDATION 32:
Licensing Review Committee

Status quo.

Queensland Competition Authority

To ensure ongoing compliance with the National Competition Policy and maintain the competitiveness of the Queensland economy, there is an ongoing need for the Queensland Competition Authority to undertake regulatory functions. The functions cannot be with Government as regulatory independence is essential and in keeping with regulatory best practice. As a regulator of both Government and private business, the Queensland Competition Authority must be independent.¹⁶³

The Reviewers agree.

RECOMMENDATION 33:
Queensland Competition Authority

Status quo.

¹⁶² Mr T Nicholls, Member for Clayfield Hansard Workers' Compensation and Rehabilitation and Other Acts Amendment Bill 30 October 2007, p. 3869-70.

¹⁶³ Queensland Treasury – Audit Response, September 2008.

Queensland Industrial Relations Commission

The Commission is a court of record and provides independent conciliation, arbitration and agreement approval service in respect of industrial matters including awards, agreements, prevention and settlement of industrial disputes and related matters and unlawful dismissals. It is essential that the Commission is independent of government and other interests.

RECOMMENDATION 34: Queensland Industrial Relations Commission

Status quo.

Queensland Workplace Rights Ombudsman

The Ombudsman was established in July 2007 in response to the then Federal Government's controversial industrial relations laws. The ongoing need for the Ombudsman is under review in the context of national industrial relations reform.

RECOMMENDATION 35: Queensland Workplace Rights Ombudsman

A review into the ongoing need for the Ombudsman in response to national industrial relations reform is supported.

WorkCover Queensland Board

The governing Board is responsible for setting the strategic direction for WorkCover and for monitoring WorkCover's business performance as a state-owned monopoly insurer for Queensland's workers' compensation scheme. WorkCover is an independent fully commercial statutory body which is necessary to keep its business at arm's length from government.

RECOMMENDATION 36: WorkCover Queensland Board

Status quo.

Workers' Compensation Regulatory Authority (Q-COMP) Board

As a direct result of a national competition policy review, the *Workers' Compensation and Rehabilitation Act 2003* separated WorkCover's insurance and regulatory functions. Q-COMP provides the independent regulatory function.

Public submission by Q-Comp (S17) also comprehensively established the Public Interest Case citing 11 reasons for the view that there would be an unacceptable level of risk were these functions to be performed within a department.

RECOMMENDATION 37:

Workers' Compensation Regulatory Authority (Q-COMP) Board

Status quo.

Workplace Health and Safety Board

The Board is the peak advisory body on workplace health and safety issues. The body provides advice and makes recommendations to the Minister about policies, strategies, allocation of resources, and legislative arrangements, for workplace health and safety. The advisory body does not make decisions nor determinations on workplace health and safety.

The Board is supported in its role by the independent advice provided by the (unremunerated) industry sector standing committees.

The Threshold Test is met. However, as a ministerial advisory/consultative committee-

- the members should not be paid sitting fees (see pp. 38-39); and
- the body should not be called a 'Board' which is misleading in that it suggests (to workers and employers for example) that the body has a governing or decision-making role (see Part A Report, p. 56; Part B Report, pp. 30-31). As a peak advisory body, the Board should be renamed a 'Council' (and because there are committees already feeding advice into the body).

The total remuneration paid to the Board for 2007-08 was \$18,221.

RECOMMENDATION 38:

Workplace Health and Safety Board

Status quo, except that the Board should be renamed as a 'Council' and members should not be remunerated.

4.4 Tourism

Queensland Tourism Strategy Implementation Steering Committee

The Committee provides oversight of the *Queensland Tourism Strategy 2006-2016*. The Committee is chaired by the Minister and includes broad and senior government and industry representation. Its functions include resolving issues in implementation, to contribute to an independent evaluation, and assist in review of the Strategy.

The expertise, representation and cross-portfolio/industry reach of the Committee meets the Threshold Test (organisational capability, essential public participation and consultation).

Members are not remunerated.

RECOMMENDATION 39:

Queensland Tourism Strategy Implementation Steering Committee

Status quo.

Tourism Queensland

Tourism Queensland was established in 1979, predominantly as a commercially driven, Government funded entity to facilitate the promotion, marketing and development of tourism and travel to, and within Queensland. Under its enabling legislation, the *Tourism Queensland Act 1979*, Tourism Queensland (TQ) is governed by a Board of up to nine directors appointed by the Governor in Council. The Board is subject to the Minister on matters of policy.

This is the Threshold Test question in issue for TQ:

Is there any *compelling* reason why a department (or other existing body) can not, or should not, undertake the proposed activity?

The comprehensive public submission received from Tourism Queensland (TQ) (S95) contended that for this question the following reasons justified their continuation separate from the Department-

- TQ undertakes highly specialised creative and commercial activities requiring specialist staff in areas such as research, marketing, soft product development, market intelligence and industry relationships. A department 'may struggle to deliver the creativity so critical to its core functions and achievements'.
- If a department *could* achieve the level of creativity, it would still struggle against a *perception* of limited creative freedom severely impacting on the ability to attract necessary cooperative marketing partners to extend the reach of marketing activity.

- TQ is 'flexible and agile' to respond to typically changing conditions and external factors.
- As a result of four reviews in two years, TQ has refined its focus on its own charter of specialist activities.
- Tourism marketing and destination management are not traditional government department activities and are best executed by a commercially focused organisation. 'The concept of selecting one commercial tourism partner over another would often prove highly problematic for a government department, but it is an essential part of our core business'.¹⁶⁴

The Reviewers considered that all these reasons might have been compelling to justify creating the statutory authority in 1979, but thirty years later a more critical examination of the respective *organisational capability* of a department is required under the Threshold Test (see Part A Report, pp. 54; Part B Report, pp. 21-29). State government departments in 2009 *also* have experience, skill and successes in creative campaigns, co-opting marketing partners, flexibility and agility in rapidly changing environments and external factors beyond its spheres of influence but demanding *instant* responses, as well as selecting large commercial partners in a wide field of government endeavour.

The Reviewers also noted that-

- other jurisdictions such as New South Wales and Victoria conduct the tourism marketing and destination management function within departmental forms and hierarchy;
- whilst tourism expertise and advice was essential for the function in delivering outcomes, a non-departmental form was not essential in securing that expertise and advice;
- other critical economic sectors are serviced effectively from departmental form (e.g. trade, manufacturing); and
- TQ is not a trading or regulatory body requiring it to be at arm's length from government (i.e. no demonstrated need for independence).

All these factors serve to challenge the *compelling* nature of the reasons why a department can not, or should not, undertake the activities and therefore whether TQ should *continue* as a non-departmental government body. In terms of the broader Public Interest Case that must be made for accountability, economy, efficiency, effectiveness and relevance, the Reviewers also noted TQ's advice (S95) that TQ has been subject to review *four* times in the past *two* years. Its inclusion on the Government's list of bodies for this Review makes five.

In 2007, the Service Delivery and Performance Commission reported-

A major governance failing of Tourism Queensland has been its inability or unwillingness to understand its role as a statutory authority, especially its reporting relationship with the Minister. Although this matter is now being addressed to some extent, the review proposes amendments to the *Tourism*

¹⁶⁴ S95 Tourism Queensland.

Queensland Act 1979 to embed this relationship. More extensive induction training on these matters for board members and all staff is proposed.¹⁶⁵

Subsequently, recommendations were implemented including a memorandum of understanding settled with the Minister.

Since that time the Minister has commissioned a further review of TQ.

This level of review activity evidences continuing and significant challenges for TQ and the Department in focusing collective resources on the 'bigger picture', *Government* objective: to protect and extend the State's second largest export industry. This circumstance also challenges the compelling nature of reasons seeking to justify current arrangements in the public interest.

None of these considerations brings into question the evident expertise that TQ holds and the many successes it has achieved, such as the recent genius in marketing with the 'best job in the world' campaign.

On consideration of the Public Interest Case, the Reviewers recommend that the functions of TQ be transferred back to the Department. A comprehensive Transition Plan and Timeframe will need to be determined, including the suitable departmental form (such as a dedicated office still called Tourism Queensland but reporting directly to the Director-General, as is the case for Trade Queensland).

RECOMMENDATION 40:
Tourism Queensland

Transfer functions back to a suitable departmental form within the portfolio department responsible for tourism and abolish the statutory authority.

4.5 Trade

Indonesia-Queensland Advisory Group

This is a newly established 'roundtable' opportunity to engage business leaders in developing strategies for enhancing Queensland's business relationship with Indonesia, and to provide advice to the Minister on trade and investment issues relevant to the Indonesia market.

¹⁶⁵ Service Delivery and Performance Commission: *Report on the Review of the Department of Tourism, Fair Trading and Wine Industry Development*, August 2007 p.13.

RECOMMENDATION 41:
Indonesia-Queensland Advisory Group

Status quo.

Queensland China Council

This peak advisory body was established in 1988 to facilitate 'business, cultural, educational, scientific and technological interchanges' between Queensland and China. The Council provides impartial and independent advice to Government that is 'informed by the depth and breadth of the knowledge and experiences that the Council members have in respect to China, and the networks and linkages they share with the various Chinese communities'. The Threshold Test is met.

The Reviewers note that there are 18 members on the Council and recommend that the size of the Council be reviewed to ensure its effectiveness, and therefore value, is not diminished by an oversized 'roundtable'. (see p. 38) Membership of advisory bodies should not be remunerated (see 3.3.1 Committees and Councils, pp. 38-39).

RECOMMENDATION 42:
Queensland China Council

Status quo, except that the membership size should be reduced and membership should not be remunerated.

Queensland Education and Training International Board

This advisory body, established in 2001, oversees the implementation of the Queensland education and training export strategy.

The Department contended that although there is a Queensland Education and Training International (QETI) functional area in the Department, continuation of the Board as a separate entity is required because the functions are quite distinct. The Reviewers are advised that without guidance from the Board-

- QETI would lack insider market intelligence to deliver projects effectively;
- QETI would lack the confidence and support from the international education and training industry which is crucial to successful outcomes;
- it would be difficult for QETI to obtain this advice on an ad hoc basis due to the numerous providers in the industry and the constantly changing market; and

- QETI would regularly be seeking direction from different providers with different agendas and would find it difficult to move beyond consultation to delivering on projects.

The Board is said to provide the authoritative and unified voice for industry and allows QETI to move forward with action items.

The cost of the Board (additional to QETI's activities) for 2007-08 was \$91, 605, including membership fees.

Membership of advisory bodies should not be remunerated (see 3.3.1 Committees and Councils, pp. 38-39).

As an advisory body, the entity should not be called a 'Board' (see Part A Report, p. 56; Part B Report, pp. 30-31).

A review of the Board in 2005 recommended that the Board continue until 2011. That recommendation was accepted by the Government at that time.

RECOMMENDATION 43:

Queensland Education and Training International Board

Status quo, except that the Board should be renamed as a 'Committee' and membership should not be remunerated. The body should sunset by 2011.

Queensland Indigenous Arts Marketing and Export Agency Advisory Board

The Board's objective is to provide policy direction and advice to the Queensland Government to facilitate the expansion of Queensland's share of the domestic and international Indigenous art market. The Department advised that the Board's role was 'critical' to expanding international markets through its superior ability to champion a whole of government approach and provide a high-level forum for government and arts industry collaboration.

The cost of the Board for 2007-08 was approximately \$20,000, including membership fees. Membership of advisory bodies should not be remunerated (see 3.3.1 Committees and Councils, pp. 38-39).

As an advisory body, the entity should not be called a 'Board' (see Part A Report, p. 56; Part B Report, pp. 30-31).

RECOMMENDATION 44:**Queensland Indigenous Arts Marketing and Export Agency Advisory Board**

Status quo, except that the Board should be renamed as a 'Committee' and membership should not be remunerated.

Queensland Trade and Investment Pty Ltd

This company was created to assist in setting up operations in other markets overseas, where the domestic law does not recognise sub-national governments.

RECOMMENDATION 45:**Queensland Trade and Investment Pty Ltd**

Status quo.

5. Environment and Resources

5.1 Water

Water Authorities have grown on an ad hoc basis over the last decades. They have often been retained, even when the initial purposes seem to have become met and when the circumstances have changed. Their long history suggests local bodies to reflect local needs. Yet ironically these needs have been met by the creation of authorities legislated by the State, rather than the local level, requiring extensive red tape, complicated processes, time delays in the formalisation of appointments and often units within government departments to service their needs.

Currently such bodies include 15 River Improvement Trusts (RITs); two 'Category 1' water boards and 53 'Category 2' water/drainage/group irrigation authorities.

Two significant circumstances have changed, relatively recently –

- Local government has been amalgamated to provide, among other things, a more strategic capacity for planning.
- Water has become a strategic, rather than a local problem. Drought and shortages of water resources has led to the creation of large SPVs in South East Queensland as an emergency response.

Since the issue of potentially running out of water impacted South East Queensland in 2006 the Government has created a number of major water bodies –

- Queensland Water Commission;
- Queensland Bulk Water Supply Authority;
- Queensland Bulk Water Transport Authority (trading as LinkWater);
- Queensland Manufactured Water Authority (trading as WaterSecure);
- SEQ Water Grid Manager;
- Four Special Purpose Vehicles – Southern Regional Water Pipeline Company Pty Ltd (trading as LinkWater Projects, Queensland Water Infrastructure Pty Ltd, South East Queensland (Gold Coast) Desalination Company Pty Ltd (trading as SureSmart Water) and Western Corridor Recycled Water Pty Ltd; and
- Water Infrastructure Project Board (although this body has been wound-up during the course of this review and therefore no longer forms part of the review).

There are, in addition –

- two Department of Natural Resources and Water (DNRW) advisory bodies – the Lower Balonne Ministerial Water Resources Advisory Council and Queensland Great Artesian Basin Advisory Council; and
- two Referral Panels – Moratorium and Resource Operations Plan.

An interstate advisory body –

- Dumaresq-Barwon Border Rivers Commission.

Governments certainly need to control the supply and delivery of water, either directly or through authorities. The Reviewers are asked to judge whether the existing structures – in terms of range and form – are most appropriate, following the *Public Interest Map*. The Reviewers consider that as a first preference local services should be delivered at a suitably appropriate local level, and that there should be flexibility of form and process, depending on local conditions. The Reviewers do not think it appropriate that Cabinet and Governor in Council should be involved in the creation or operations of bodies which provide very local services. The recommendations that follow adopt this logic.

River Improvement Trusts, covering the following 15 areas: Burdekin, Cairns, Cardwell, Clifton, Don, Herbert, Ipswich, Johnstone, Jondaryan, Pioneer, Scenic Rim, Stanthorpe, Wambo, Warwick and Whitsunday

The primary role of a River Improvement Trust (RIT) is to plan, design, finance, undertake and maintain stream improvement works for the benefit of the community within its river improvement area. The relevant Act provides a RIT with the powers to undertake these functions including the ability to raise funds, enter and occupy land, enter into contracts and carry out works.

Generally, the place of business of a RIT is the relevant local government office and RITs usually obtain some administrative support from the relevant local government. Half or more of most RITs are ex-officio local councillors. The relevant local government is the primary fund provider to their local RIT(s) via precepts which are indirectly levied on the whole of the community. Landholders may also contribute financially to riverine works. RITs can also apply for certain grants and subsidies from the Commonwealth and State Governments.

In areas that do not have RITs, the local government carries out the equivalent functions if required. Some of these RITs, by name and area, are linked to now amalgamated councils. A leading riverine scientist indicated to the Reviewers that their activities often do not reflect best practice. There seems to be no strong reason why, in a few places only, these functions should be fulfilled by semi-independent authorities.

The 1987 Savage Review recommended that the functions of RITs should be transferred to become a direct responsibility of local government.¹⁶⁶

Submissions from RITs¹⁶⁷ (S39, S43, S44, S56, S57, S72 and S93) were in favour of the status quo. Issues raised included the incursion powers on private land that RITs

¹⁶⁶ Public Sector Review Committee (Chaired by Sir Ernest Savage), *Public Sector Review: Report (Queensland)*, July 1987.

¹⁶⁷ S39 Scenic Rim Rivers Improvement Trust; S43 State Council of River Trusts (Queensland) Inc.; S44 Pioneer River Improvement Trust; S56 Cairns River Improvement Trust; S57 Burdekin Shire Rivers Improvement Trust; S72 Whitsunday Rivers Improvement Trust; and S93 Cardwell and Johnstone Shire River Improvement Trusts.

have, the financial consequences of potentially transferring the powers of a RITs to another body, and the close links that RITs have with their local government. The Reviewers have considered the views presented and the application of the *Public Interest Map* and are not convinced that the River Improvement Trusts should remain as they currently are formed. The Reviewers believe that local governments should have the capacity to fulfill these functions.

RECOMMENDATION 46:

River Improvement Trusts, covering the following 15 areas: Burdekin, Cairns, Cardwell, Clifton, Don, Herbert, Ipswich, Johnstone, Jondaryan, Pioneer, Scenic Rim, Stanthorpe, Wambo, Warwick and Whitsunday

The River Improvement Trusts should be abolished and their functions transferred or incorporated into local governments, with all responsibilities and powers required to undertake their activities.

Category 2 Water Authorities (53 separate bodies)

There are 53 category 2 water authorities¹⁶⁸, variously titled as water board, water supply board, water authority, water management authority and drainage board. About two-thirds of them service under 30 households, including 16 which serve 10 or less households. Only seven of the 53 support more than 100 households, with the largest covering 509 households. In total, all 53 category 2 water authorities cover just 2,488 households. Yet the processes of managing and endorsing all the people elected to these water authorities create extensive red tape within DNRW. There is a unit dedicated to servicing their needs. There is a 70-page handbook that spells out in detail the stages that must be followed in elections and in operations. Thus the hidden costs – in terms of staffing, time spent by senior officers and opportunity costs – often are far greater than the direct costs of the Boards themselves. (See discussion on appointment processes, pp. 34-37; Appendix C)

Eight submissions were received relating to these water authorities¹⁶⁹. They included arguments that such bodies are too small and should be merged into a larger body (S66) and proposals that they should be allowed to become a cooperative (S21). Many submissions from water boards argued for the status quo.

Government oversight of water is essential, whether provided by a statutory authority, local government or other body. A statutory form, with all the red tape and process that is required for appointment and audit, is both inflexible and unnecessary. These are local functions, often carried out effectively at local level. They should be released from State control and adjusted to meet local needs.

¹⁶⁸ 'Category 2' is defined in the *Water Act 2000* and is the generic term used for relatively small-scale water authorities.

¹⁶⁹ S2 Lower Herbert Water Management Authority; S7 Messrs Monsour, Prenzler and Stephan; S18 Woodmillar Water Board; S21 Pioneer Valley Water Board; S25 Grevillea Water Board; S58 North Burdekin Water Board; S61 South Burdekin Water Board; and S66 Mr Arthur Devin.

Rather than impose extensive central processes and forms, it seems appropriate that generally local governments should be able to determine the best means of delivering local water services in their area. Local governments should be consulted to determine the choices between delivering services themselves, delegating them to local boards or using alternative (non-government) institutional arrangements, such as establishing local cooperatives or incorporated associations. For smaller authorities (under 20 landholders), the most appropriate option might be by private contract. Whatever system is chosen should become part of the local government's audited accounts. Such a transfer should remove the red tape around appointments and the need for the Queensland Audit Office to undertake separate audits.

There is some concern that a transfer of assets from water authorities to local governments could be costly due to issues such as transfer duties.

RECOMMENDATION 47:

Category 2 Water Authorities: Avondale Water Board, Babinda Swamp Drainage Board, Benleith Water Board, Bollon South Water Authority, Bollon West Water Authority, Bones Knob Water Board, Boondooma Water Board, Brigooda Water Board, Callandoon Water Supply Board, Condamine Plains Water Board, Coreen Water Board, Cowley Drainage Board, Crowley Vale Water Board, Dundowran-Nikenbah Water Board, East Deeral Drainage Board, East Euramo Drainage Board, Eugun Bore Water Authority, Fernlee Water Authority, Glamorgan Vale Water Board, Grevillea Water Board, Ingie Water Authority, Juandah Water Board, Kaywanna Bore Water Board, Kelsey Creek Water Board, Kooingal Water Board, Lower Herbert Water Management Authority, Marathon Bore Water Supply Board, Matthews Road Drainage Board, Merlwood Water Board, Middle Park Bore Water Supply Board, Mourilyan Drainage Board, Mulgildie Water Board, Myall Plains Water Board, North Burdekin Water Board, Oaky Creek Water Board, Orchard Creek Drainage Board, Palmgrove Water Board, Pioneer Valley Water Board, Riversdale-Murray Valley Water Management Board, Roadvale Water Board, Silkwood Drainage Board, Six Mile Creek Water Supply Board, Smithfield Drainage Board, South Burdekin Water Board, South Maroochy Drainage Board, Stagnant Creek Drainage Board, Taberna Bore Water Board, Wanda Creek Drainage Board, Warrubullen Drainage Board, Washpool Water Board, Weengallon Water Authority, Woodmillar Water Board, and Yambocully Water Board.

The Category 2 Water Boards should be abolished and their responsibilities transferred to local governments, which should have the flexibility to determine between delivering local water services themselves, delegating them to local boards or using alternative (non-government) institutional arrangements, such as establishing local cooperatives or incorporated associations. For smaller authorities (under 20 landholders), the most appropriate option might be by private contract.

We recommend that the transfer of responsibilities and assets be managed efficiently and cost-effectively once those determinations have been made and that the Treasurer waives any transfer duties that may be applicable.

We recommend that the *Water Act 2000* be amended to reduce the legislative red tape of the category 2 water bodies including specification of the means of establishment, membership and ongoing management of these bodies, to reflect the recommendations that these bodies be the responsibility of local governments and allow for alternative institutional arrangements to be implemented without the current legislative burdens.

Category 1 Water Authorities - Mount Isa Water Board and Gladstone Area Water Board

The Mount Isa and Gladstone water authorities are established under the *Water Act 2000* and are required to operate as commercialised authorities, subject to regulatory pricing oversight by the Queensland Competition Authority.

These authorities are large-scale bodies in comparison to the category 2 authorities – for example, as at 30 June 2008 the Gladstone Board held assets of \$356M and employed 44 people. The Gladstone Area Water Board, in a submission to the review (S79)¹⁷⁰ stated that it is a self-funding body and is expected to operate as if it were a Government Owned Corporation (GOC). In addition to their commercial customers, the two category 1 Water Boards are ultimately responsible for water supply (via the relevant local government) to populations of around 21,000 (Mount Isa) and 54,000 (Gladstone). They provide the regional approach to water management that seems appropriate in the existing climate and which is consistent with our previous recommendations.

RECOMMENDATION 48:

Category 1 Water Authorities - Mount Isa Water Board and Gladstone Area Water Board

These Category 1 Water authorities should be retained as they are commercialised entities which provide a regional approach to the management of water in their unique regions of the State.

¹⁷⁰ S79 Gladstone Area Water Board.

***Lower Balonne Ministerial Water Resources Advisory Council
Queensland Great Artesian Basin Advisory Council
Referral Panel (Moratorium)
Referral Panel (Resource Operations Plan)
Murray-Darling Basin Commission
Dumaresq-Barwon Border Rivers Commission***

There are two advisory councils whose functions have largely been fulfilled, or will be in the near future. Resources are needed to maintain support for them. It is important that bodies are not retained once their purposes are satisfied. One test of ministerial advisory bodies is the priority given to them by Ministers in terms of appearance at them. If these bodies are abolished, the Minister can continue to receive advice via appropriate consultation with cheaper and less formal mechanisms.

RECOMMENDATION 49:

Lower Balonne Ministerial Water Resources Advisory Council and the Queensland Great Artesian Basin Advisory Council

The Lower Balonne Ministerial Water Resources Advisory Council should be abolished when its function of advising on the Condamine and Balonne Water Resource Plan is completed. The Queensland Great Artesian Basin Advisory Council should be abolished forthwith.

There are two advisory Panels: the Referral Panel (Moratorium) and the Referral Panel (Resource Operations Plan). The Moratorium Panel advises on moratoriums on completing water infrastructure, the Resource Operations Panel on water services and allocations. Both provide a level of natural justice to applicants. Both panels draw on the same pool of people to provide advice. DNRW thinks it desirable that the panels remain distinct. We are not persuaded and see possible benefit in combining their administration.

RECOMMENDATION 50:

Referral Panel (Moratorium) and Referral Panel (Resource Operations Plan)

The functions of the two Referral Panels should be retained, but the two Panels should be combined, with a review after two years.

Queensland's Murray-Darling Basin Commission has been abolished during the course of this review, with the creation of a similar Commonwealth Authority. The Reviewers agree with that action.

The Dumaresq-Barwon Border Rivers Commission exists due to a long standing agreement between the Queensland and New South Wales State Governments. Since it covers rivers which form part of the Murray-Darling basin, there may be opportunity for it to be subsumed into the Commonwealth Government's Murray-Darling Basin Authority to facilitate a more strategic approach.

RECOMMENDATION 51:
Murray-Darling Basin Commission

The Reviewers note that this body has been abolished during the course of this review.

RECOMMENDATION 52:
Dumaresq-Barwon Border Rivers Commission

The Dumaresq-Barwon Border Rivers Commission should be retained, but with a view to consideration of its consolidation into the Commonwealth Government's Murray-Darling Basin Authority.

Queensland Water Commission
Queensland Bulk Water Supply Authority
Queensland Bulk Water Transport Authority (trading as LinkWater)
Queensland Manufactured Water Authority (trading as WaterSecure)
SEQ Water Grid Manager
Southern Regional Water Pipeline Company Pty Ltd (trading as LinkWater Projects)
Queensland Water Infrastructure Pty Ltd
South East Queensland (Gold Coast) Desalination Company Pty Ltd (trading as SureSmart Water)
Western Corridor Recycled Water Pty Ltd

The range of water bodies that exist in south east Queensland was a response to the drought crisis. A number of statutory agencies and Special Purpose Vehicles (SPVs) were created to provide a focused, strategic approach to provide as rapid relief as possible in terms of joined-up infrastructure (pipes connecting different major sources of water), desalination plants, recycled water and water restrictions. The Auditor-General has warned elsewhere of the potential problems with SPVs. These bodies could later create issues of governance and accountability.

In submissions to the review, the Queensland Water Commission (S36)¹⁷¹, the SEQ Water Grid Manager (S45)¹⁷² and LinkWater and LinkWater Projects (S77)¹⁷³

¹⁷¹ S36 Queensland Water Commission.

¹⁷² S45 SEQ Water Grid Manager.

proposed that the criteria of commerciality should be added to our *Public Interest Map*. We do not agree. We consider that the *Public Interest Map* is designed to cut through to what governments should do and in what form. Commerciality, or even privatisation, may be appropriate forms of response, but it should not be the primary test of public interest. Too often it is presented as a means of bypassing accountability and due process for the expenditure of what remains public monies.

SPVs may be a good response to emergency, but demands for accountability require that, when the emergency has passed, such bodies be folded back into government management. Therefore, once the majority of these drought-proofing activities are completed, the water bodies can be consolidated. They can be functionally organised into water supply and water delivery bodies, to allow a degree of purchaser/provider split between the two. If there is to be a separate regulator, then it should be entirely distinct with no overlapping personnel.

The Directors-General of the sponsoring departments all agree that there are too many bodies to manage water in south-east Queensland, acknowledge that they were established during a critical drought period, and agree that the structure and number of these bodies could now be changed.

The Queensland Water Commission has a range of specific functions: to provide advice to Ministers, facilitate water security and ensure compliance with rationing. When the latter two are fulfilled, the provision of advice remains. The Reviewers are of the view that the Queensland Water Commission's functions can appropriately be undertaken by a government department, bolstered by the experience of the Commission.

RECOMMENDATION 53:
Queensland Water Commission

The Queensland Water Commission should be abolished and its functions should be transferred into the Department of Natural Resources and Water.

RECOMMENDATION 54:
Queensland Bulk Water Supply Authority
Queensland Bulk Water Transport Authority (trading as LinkWater)
Queensland Manufactured Water Authority (trading as WaterSecure)
SEQ Water Grid Manager

The four bulk water infrastructure bodies should be abolished and the functions should be transferred into the Department of Natural Resources and Water.

¹⁷³ S77 LinkWater and LinkWater Projects

When the SPVs established to build the infrastructure have completed their tasks, they should be dissolved.

RECOMMENDATION 55:

Southern Regional Water Pipeline Company Pty Ltd (trading as LinkWater Projects)

Queensland Water Infrastructure Pty Ltd

South East Queensland (Gold Coast) Desalination Company Pty Ltd (trading as SureSmart Water)

Western Corridor Recycled Water Pty Ltd

Status Quo is recommended for these four Special Purpose Vehicles, but each should be abolished on completion of the specific project for which it was established.

Water Infrastructure Project Board

The Water Infrastructure Project Board has been wound-up during the course of this review and therefore no longer forms part of the review.

RECOMMENDATION 56:

Water Infrastructure Project Board

The Reviewers note that this body has ceased to operate.

5.2 Primary Industries

Agricultural Chemicals Distribution Control Board

Community Consultative Committee for the Control of Exotic Pest Fish

Industrial Hemp Advisory Committee

When bodies have not met for some time, or when the positions on the bodies have remained unfilled, it is reasonable to assume that there is no pressing need for these bodies and that they can be abolished. The terms of the members of the Agricultural Chemicals Distribution Control Board have expired and there is no identified need for its continuance. The Community Consultative Committee for the Control of Exotic Pest Fish has not met for two years and the Department can consult with stakeholders on this issue as necessary. The Industrial Hemp Advisory Committee has not met since 2005 and is no longer required.

RECOMMENDATION 57:

Agricultural Chemicals Distribution Control Board
Community Consultative Committee for the Control of Exotic Pest Fish
Industrial Hemp Advisory Committee

Abolish.

Department of Primary Industries and Fisheries Community Access Animal Ethics Committee

Department of Primary Industries and Fisheries Staff Access Animal Ethics Committee

Environmental Protection Agency Animal Ethics Committee

Animal Ethics Committees are required by various entities in the public sector, in accordance with the *Animal Care and Protection Act 2001*. Of relevance to this review are those Animal Ethics Committees established by Government Departments, namely the Department of Primary Industries and Fisheries, which has two such bodies, and the Environmental Protection Agency (one). The Animal Ethics Committees are usually specific to the work of the relevant department. Although consolidating the bodies together was considered, the Reviewers do not believe this would result in benefits to the State and therefore recommend the status quo in respect of Animal Ethics Committees.

RECOMMENDATION 58:

Department of Primary Industries and Fisheries Community Access Animal Ethics Committee

Department of Primary Industries and Fisheries Staff Access Animal Ethics Committee

Environmental Protection Agency Animal Ethics Committee

Status quo.

Animal Valuers Tribunal

Chicken Meat Industry Committee

Where no strong Public Interest Case has been made for the continuance of a body, the Department can either outsource the function or expect industry to provide the service itself. In relation to the Animal Valuers Tribunal, the Government can outsource the function as required. In relation to the Chicken Meat Industry Committee, if it is deemed the function is still needed, it can be undertaken by an industry funded non-statutory body.

RECOMMENDATION 59:
Animal Valuers Tribunal
Chicken Meat Industry Committee

Abolish.

Animal Welfare Advisory Committee
Racing Animal Welfare and Integrity Board

These two bodies have some similarities in that animal welfare is of concern to both. However, while the former body was established entirely for the purpose of providing advice on a range of animal welfare issues, the latter exists under the *Racing Act 2002* to provide specific advice about the welfare of animals used for racing (principally horses and greyhounds), drug control, accredited facilities and to develop and publish sampling procedures. Its main function is to monitor the relevant policies of the control bodies (Queensland Racing Ltd, Queensland Harness Racing Ltd and Greyhounds Queensland Ltd) for each type of racing and assess the quality and range of drug (doping) control.

Although the Reviewers considered the case for merging the bodies together, due to the disparate nature of their functions we do not believe this would result in benefits to the State. Consideration was also given to transferring the functions of the Racing Animal Welfare and Integrity Board to the new Biosecurity Queensland Ministerial Advisory Committee, but the existing function is primarily regulatory, concerning integrity matters.

RECOMMENDATION 60:
Animal Welfare Advisory Committee
Racing Animal Welfare and Integrity Board

Status quo.

Australian Agricultural College Corporation Advisory Board

The Australian Agricultural College Corporation was recently reviewed by consultants on behalf of the Department of Primary Industries and Fisheries. The Reviewers were informed that as a result of the consultants' review, the Department of Primary Industries and Fisheries is likely to make changes in the medium to long term to the status of the Corporation, including to the role of the Advisory Board.

RECOMMENDATION 61:
Australian Agricultural College Corporation Advisory Board

Status quo.

Biosecurity Queensland Ministerial Advisory Council
Land Protection (Pest and Stock Route Management) Council
Darling Downs-Moreton Rabbit Board

The Biosecurity Queensland agency was formed within the Primary Industries and Fisheries portfolio following a review that identified the dispersed nature of responsibilities across at least three departments. Biosecurity Queensland is currently in the process of forming a Ministerial Advisory Committee to provide independent strategic advice to the Minister. The creation of this body provides an opportunity to rationalise the number of bodies which perform, or might perform, Biosecurity related functions.

RECOMMENDATION 62:
Biosecurity Queensland Ministerial Advisory Council

The Biosecurity Queensland Ministerial Advisory Council should be retained (once established). The Biosecurity Queensland Ministerial Advisory Council should take on the pest management advisory responsibilities of the Land Protection (Pest and Stock Route Management) Council and any pest management advisory responsibilities (not including upkeep of the rabbit-proof fence) of the Darling Downs-Moreton Rabbit Board.

RECOMMENDATION 63:
Land Protection (Pest and Stock Route Management) Council

Abolish. The pest management advisory responsibilities of the body should be transferred to the Biosecurity Queensland Ministerial Advisory Council, and the stock route management responsibilities of the body should be transferred to the Department of Primary Industries and Fisheries or Department of Natural Resources and Water.

The Reviewers received a submission from the Darling Downs-Moreton Rabbit Board¹⁷⁴ which supported the status quo, arguing that the preservation and improvement of the rabbit-proof fence is vital. The Reviewers also received a submission from the Condamine Alliance¹⁷⁵ which argued that the Darling Downs-Moreton Rabbit Board should be abolished.

Consistent with our view that local government, post-amalgamation, should be in a strong position to provide regional strategic approaches to certain issues, we recommend that those eight councils in whose area the rabbit-proof fence exists should become responsible for its upkeep, if they decide the function is necessary. Whether or not the local governments choose to retain the Board should be their responsibility and not a matter for the State Government.

RECOMMENDATION 64:

Darling Downs-Moreton Rabbit Board

Abolish. Its infrastructure functions (primarily the upkeep of the rabbit-proof fence) should be transferred to the eight local governments in whose area the rabbit-proof fence exists. Any advice to the Minister on pest management issues that may previously have been provided by the Darling Downs-Moreton Rabbit Board should in future be provided by the Biosecurity Queensland Ministerial Advisory Council.

Crab Management Advisory Committee
Freshwater Fisheries Management Advisory Committee
Gulf of Carpentaria Management Advisory Committee
Harvest Fisheries Management Advisory Committee
Inshore Finfish Management Advisory Committee
Reef Fisheries Management Advisory Committee
Trawl Management Advisory Committee

There are seven separate advisory committees relating to the fisheries sector. We are of the view that it is more appropriate for one strategically focussed advisory committee to provide fisheries advice to the Minister. Such a body could establish sub-committees as appropriate for specialised functions. Membership of advisory bodies should not be remunerated (see 3.3.1 Committees and Councils, pp. 38-39).

¹⁷⁴ S30 Darling Downs-Moreton Rabbit Board.

¹⁷⁵ S31 Condamine Alliance.

RECOMMENDATION 65:

Crab Management Advisory Committee
Freshwater Fisheries Management Advisory Committee
Gulf of Carpentaria Management Advisory Committee
Harvest Fisheries Management Advisory Committee
Inshore Finfish Management Advisory Committee
Reef Fisheries Management Advisory Committee
Trawl Management Advisory Committee

Abolish, these seven bodies should be merged into one strategic Fisheries Management Advisory Committee, with that body to have the power to establish sub-committees as appropriate for specialised functions. Membership of advisory bodies should not be remunerated (see 3.3.1 Committees and Councils, pp. 38-39).

Food Industry Advisory Council
Queensland Food, Fibre and Agribusiness Council

The Food Industry Advisory Council and the Queensland Food, Fibre and Agribusiness Council provide important, but similar, advice to two separate Ministers. Providing administrative support for both is unnecessary and the Reviewers are of the view that these bodies should be combined.

RECOMMENDATION 66:

Food Industry Advisory Council
Queensland Food, Fibre and Agribusiness Council

These two bodies should be merged, and a new advisory body should be created which reports to both relevant Ministers (the Minister for Primary Industries and Fisheries and the Minister for Tourism, Regional Development and Industry).

Forestry Plantations Queensland Advisory Board

The Forestry Plantations Queensland Advisory Board provides high-level advice which is seen as being essential, effective and well balanced, and the Board contains a depth of relevant experience.

RECOMMENDATION 67:

Forestry Plantations Queensland Advisory Board

Status quo.

QRAA

QRAA is a well regarded body which administers financial assistance schemes, primarily in respect of the rural and regional sectors of the State's economy. Although in theory its functions could be carried out by a Government department, the Reviewers see there being merit in the current system, in particular providing certainly to the public that independent assessments of private financial information are occurring.

RECOMMENDATION 68: QRAA

Status quo.

Rural Skills, Training and Labour Industry Advisory Group

This is viewed as being a useful body providing expert advice on supporting the growth of rural industry capability and accountability for skills attraction, development and retention.

RECOMMENDATION 69: Rural Skills, Training and Labour Industry Advisory Group

Status quo.

Safe Food Production Queensland

This is an important regulatory body. The level of independence provided by the body manages the dynamic tension between the issues of public health and market access/industry promotion. These issues would create significant challenges if the functions were carried out by a single Department. Safe Food Production Queensland provided a detailed submission to the review.¹⁷⁶

RECOMMENDATION 70: Safe Food Production Queensland

Status quo.

¹⁷⁶ S49 Safe Food Production Queensland.

Veterinary Surgeons Board of Queensland

This body maintains the integrity of the profession in Queensland via a registration and discipline system. The Reviewers believe there is a community need for the regulation of the profession for similar reasons to those of the medical profession and, due to the need for regulation to occur independently of Government, the Reviewers recommend the status quo.

RECOMMENDATION 71:

Veterinary Surgeons Board of Queensland

Status quo.

5.3 Natural Resources

Capricornia Regional Electricity Council
Far North Queensland Regional Electricity Council
Mackay Regional Electricity Council
North Queensland Regional Electricity Council
South East Queensland Regional Electricity Council
South West Queensland Regional Electricity Council
Wide Bay-Burnett Regional Electricity Council

There are seven Regional Electricity Councils; these bodies are funded by electricity authorities (Energex and Ergon, both Government Owned Corporations). Members are Ministerial appointments. In 2006 and 2008, the great majority of members were re-appointed.

The Regional Electricity Councils are active in terms of the regularity of their meetings. The Reviewers received submissions from the Wide Bay-Burnett Regional Electricity Council¹⁷⁷ and the South East Queensland Regional Electricity Council¹⁷⁸, both setting out the roles and responsibilities of their respective bodies, and supporting the need for such bodies to continue.

It is certainly desirable that the Regional Electricity Councils have connections with the community. It is less certain to what degree, and how, these bodies represent the communities they serve. There further seems to be no good reason for these positions to be Ministerial appointments and involve the State Government. Considerable red tape is created by the need to get approval for the appointments.

The Reviewers believe that the responsibility for the community consultative bodies should rest with the electricity authorities, to ensure consultation with communities.

¹⁷⁷ S1 Wide Bay-Burnett Regional Electricity Council.

¹⁷⁸ S19 South East Queensland Regional Electricity Council.

RECOMMENDATION 72:

Capricornia Regional Electricity Council
Far North Queensland Regional Electricity Council
Mackay Regional Electricity Council
North Queensland Regional Electricity Council
South East Queensland Regional Electricity Council
South West Queensland Regional Electricity Council
Wide Bay-Burnett Regional Electricity Council

Abolition of the seven Regional Electricity Councils as Ministerial appointments. The electricity authorities should be required to develop their own community consultative arrangements in a form that is satisfactory to the Minister.

Board of Examiners (Coal Mining Safety and Health Act)
Board of Examiners (Mining and Quarrying Safety and Health Act)

The Reviewers note that the two bodies effectively operate as a single body – in practice the eight members (three Government, five non-Government) decide on both coal and metalliferous certificates of competency, although the majority of certificates are granted to people working in the coal sector.

RECOMMENDATION 73:

Board of Examiners (Coal Mining Safety and Health Act)
Board of Examiners (Mining and Quarrying Safety and Health Act)

Merger of these two bodies.

CEOs Committee for Natural Resource Management in South East Queensland

This body is a CEOs Committee.

RECOMMENDATION 74:

CEOs Committee for Natural Resource Management in South East Queensland

Status quo.

Clean Coal Council

This body is responsible for recommendations in respect of both public and private finance and as such it is appropriate for the functions to be carried out by a Government body rather than within a Department.

RECOMMENDATION 75:
Clean Coal Council

Status quo.

Coal Mining Safety and Health Advisory Council ***Mining Safety and Health Advisory Council***

The Reviewers considered the case for merging these bodies, but were persuaded that because of the quite distinct natures of coal mining and metalliferous mining, the bodies should be retained as they are. They provide important health and safety advice on two entirely separate segments of the mining industry.

These advisory bodies should be renamed 'committees' (pp. 30-32). Membership of advisory bodies should not be remunerated (see 3.3.1 Committees and Councils, pp. 38-39).

RECOMMENDATION 76:
Coal Mining Safety and Health Advisory Council
Mining Safety and Health Advisory Council

Status quo, except the Councils should be renamed 'Committees' and membership should not be remunerated.

Energy Ombudsman Queensland

This is a relatively recently established independent body with broad dispute resolution functions. The Reviewers are persuaded that it has the strong support of stakeholders and, by their nature, the functions should not be performed directly by Government.

RECOMMENDATION 77:
Energy Ombudsman Queensland

Status quo.

Energy Ombudsman Queensland Advisory Council

This body provides key independent advice to both the Energy Ombudsman Queensland and the Minister on the independence and budget of the Ombudsman scheme, and appears to be highly valued by both.

RECOMMENDATION 78:
Energy Ombudsman Queensland Advisory Council

Status quo.

ZeroGen Pty Ltd

This body is a wholly-owned subsidiary of the Department of Mines and Energy but is also a company incorporated under the *Corporations Act 2001 (Cth)*. Its purpose is to examine the technical and financial feasibility of integrating coal-based gasification and carbon capture and storage technologies to produce safe, reliable, low emissions electricity with reduced carbon dioxide emissions.

The Reviewers are not persuaded that the body's current form is appropriate. The company has significant financial responsibilities in a highly technical, if not speculative, area. Given the company's intended objective and its expectations of funding sources, either it should be transferred to industry, or it should be wound up. The Reviewers recommend that the Department undertakes a review to ascertain which of these options better meets the public interest.

RECOMMENDATION 79:
ZeroGen Pty Ltd

A review should be undertaken by the Department to ascertain whether the body should be transferred to industry, or it should be wound up.

5.4 Environment and Sustainability

Board of Trustees of Newstead House

The Trustees are responsible for the government, management and control of Newstead House, one of Brisbane's best known and most visited heritage sites, under the *Newstead House Act 1939*.

The Board of Trustees of Newstead House has made a substantial contribution through its own initiatives, to heighten the awareness of Newstead locally and on a broader scale. This increased awareness also established mechanisms to increase an economic base for Newstead House. Contributions of money and time provided by the 'Friends of Newstead Inc.', a dedicated committee of volunteers, are significant.¹⁷⁹

The Department advised that it does not currently have the necessary resources available to adequately manage Newstead House.¹⁸⁰ Continuation of the Board of Trustees is essential.

RECOMMENDATION 80:
Board of Trustees of Newstead House

Status quo.

Brisbane Forest Park Advisory Planning Board
Macropod Management Advisory Committee
Newry Island Management Advisory Committee
Proserpine Rock Wallaby Recovery Team
Heron Island Management Board
Heron Island Management Committee

The Reviewers recommend the abolition of the six bodies for the reasons specified in each case. There is no identified need for the Brisbane Forest Park Advisory Planning Board's continuance. The Macropod Management Advisory Committee has not met since 2006 and its functions, including any required consultation, can be carried out by the Department. The Newry Island Management Advisory Committee has not met since 2004 and is inactive.

The Reviewers do not believe a separate body needs to exist in relation to the functions of the Proserpine Rock Wallaby Recovery Team and believe the Department can carry out any required functions directly. The functions of the two Heron Island bodies can be carried out by the Department, in consultation with the other land users of Heron Island; there is no need for separate bodies to exist for this purpose.

¹⁷⁹ Environmental Protection Agency – Audit response August 2008.

¹⁸⁰ Environmental Protection Agency – Audit response August 2008.

RECOMMENDATION 81:

Brisbane Forest Park Advisory Planning Board
Macropod Management Advisory Committee
Newry Island Management Advisory Committee
Proserpine Rock Wallaby Recovery Team
Heron Island Management Board
Heron Island Management Committee

Abolish.

Coastal Protection Advisory Council
Mackay-Whitsunday Regional Consultative Group

The Minister's request to cease the preparation of Regional Coastal Management Plans, based on the results of a review, means much of the role of the Coastal Protection Advisory Council and the Mackay-Whitsunday Regional Consultative Group is now redundant. The Reviewers believe that any further advice required by the Minister can be obtained by other, less formal mechanisms. The Mackay-Whitsunday Regional Consultative Group made a submission¹⁸¹, expressing surprise that it was included within this Review.

RECOMMENDATION 82:

Coastal Protection Advisory Council
Mackay-Whitsunday Regional Consultative Group

Abolish.

Fraser Island World Heritage Area Community Advisory Committee
Fraser Island World Heritage Area Indigenous Advisory Committee
Fraser Island World Heritage Area Management Committee
Fraser Island World Heritage Area Scientific Advisory Committee
Wet Tropics Management Authority
Wet Tropics Management Authority – Rainforest Aboriginal Advisory Committee
Wet Tropics Management Authority – Community Consultative Committee
Wet Tropics Management Authority – Conservation Sector Liaison Group
Wet Tropics Management Authority – Scientific Advisory Committee
Wet Tropics Management Authority – Tourism Industry Liaison Group

A number of World Heritage Area bodies were included in the terms of reference for this Review. An issue which has become apparent as the Review has progressed is the 'patchwork' approach that appears to exist in relation to the management of

¹⁸¹ S70 Mackay-Whitsunday Regional Consultative Group.

World Heritage Areas. The Reviewers were grateful to the Wet Tropics Management Authority for its comprehensive submission which set out in great detail the arrangements that exist in relation to that World Heritage Area.¹⁸²

The Commonwealth and Queensland Governments have shared jurisdiction over World Heritage Areas and both provide funding for their management. The Great Barrier Reef Marine Park Authority is a Commonwealth Government body and as such was not included in our terms of reference. Another World Heritage Area – the Gondwana Rainforests of Australia – lies partially in Queensland but is predominantly in New South Wales. This World Heritage Area does not form part of our review either.

However, the Wet Tropics, Fraser Island and Riversleigh World Heritage Areas are managed by bodies which were created under Queensland legislation and therefore are included in our review. The Reviewers found that while the Wet Tropics is governed by a high profile Management Authority, Fraser Island and Riversleigh do not appear to have similar authorities advocating for their cases. There are also numerous committees attached to the Wet Tropics and Fraser Island bodies, but this is not the case in respect of Riversleigh.

Discussions on the World Heritage Area bodies have taken place with the Australian Government. As a result of those discussions, the Reviewers recommend that the Queensland and Australian Governments should work together to develop a better model for the function and form of bodies managing World Heritage areas, with a view to improving the clarity and consistency of governance arrangements. A way forward would be to apply the *Public Interest Map* detailed in Chapter 3 to World Heritage bodies.

RECOMMENDATION 83:

Fraser Island World Heritage Area Management Committee plus three committees

Wet Tropics Management Authority plus five committees

The Fraser Island World Heritage Area Management Committee should be retained, on the assumption that the three other committees (the Community Advisory Committee, the Indigenous Advisory Committee and the Scientific Advisory Committee) are and continue to be sub-committees of the Management Committee. The Wet Tropics Management Authority and its five sub-committees should be retained.

It is recommended that the Queensland and Australian Governments should work together to develop a better model for the function and form of bodies managing World Heritage areas, with a view to improving the clarity and consistency of governance arrangements.

¹⁸² S40 Wet Tropics Management Authority.

Cape York Peninsula Regional Advisory Committee
Cape York Peninsula Region Scientific and Cultural Advisory Committee
Riversleigh Community Scientific Advisory Committee
Waanyi Ministerial Advisory Committee

Although Cape York is not a World Heritage Area at present, it is possible that parts of the Cape York area may be listed in future and it is helpful to consider the two Cape York bodies under review in the context of World Heritage Areas.

The Reviewers are of the view that there are significant areas of overlap between the two Cape York bodies and between the Riversleigh and Waanyi bodies. While we are proposing to keep the existing bodies at present, there may be a case for rationalisation of them in the medium term. This is consistent with our recommendation that the Queensland and Commonwealth Governments should work together to develop a better model for the function and form of bodies managing World Heritage areas, with a view to improving the clarity and consistency of governance arrangements.

For now, the facts that (i) the Cape York bodies have only recently been established by the Queensland Government, and that (ii) the Riversleigh and Waanyi bodies relate to a World Heritage Area (and the Commonwealth Government provides part of their funding) lead us to believe there should not be alterations to the existing bodies at present. However the Reviewers believe that the two Cape York bodies should be subject to review within two years of their establishment, and that the Riversleigh and Waanyi bodies should be included as part of the Queensland/ Commonwealth joint working (discussed above) to develop a better model for the function and form of bodies managing World Heritage areas.

RECOMMENDATION 84:

Cape York Peninsula Regional Advisory Committee
Cape York Peninsula Region Scientific and Cultural Advisory Committee
Riversleigh Community Scientific Advisory Committee
Waanyi Ministerial Advisory Council

Status quo. A review should take place in respect of the Cape York Peninsula Regional Advisory Committee and the Cape York Peninsula Region Scientific and Cultural Advisory Committee within two years of their establishment.

It is recommended that the Queensland and Australian Governments should work together to develop a better model for the function and form of bodies managing World Heritage areas, with a view to improving the clarity and consistency of governance arrangements.

Crocodile Management Advisory Committee

The Reviewers were originally intending to propose the abolition of this body due to its functions having seemingly been completed with the introduction of the Crocodile Conservation Plan, but are now persuaded that there are further advisory functions required which are best carried out by a non-departmental body.

RECOMMENDATION 85:
Crocodile Management Advisory Committee

Status quo.

Horse Trails Scientific Advisory Committee

This body was established following a 2006 Government election commitment to carry out a long-term, detailed scientific program to monitor potential detrimental impacts that result from horse riding on forestry lands in south east Queensland. The Reviewers see merit in the continued provision of independent advice on this matter.

RECOMMENDATION 86:
Horse Trails Scientific Advisory Committee

Status quo.

Jurisdictional Projects Group (Queensland)

This is a body in which the State Government, local government, industry and other stakeholders work in partnership to achieve shared aims. It is part of an Australia-wide project which Queensland is committed to until at least 2010. The Reviewers are of the view the functions it provides are important and therefore recommend the status quo.

RECOMMENDATION 87:
Jurisdictional Projects Group (Queensland)

Status quo.

National Trust of Queensland

The National Trust of Queensland was established in 1963, before the Queensland Heritage Council.

The Trust is a statutory body under the *National Trust of Queensland Act 1963*. As the National Trust's public submission (S27) explained, it operates as a trust and an advisory committee. The role of the National Trust of Queensland (NTQ) includes –

- owning and managing heritage properties open to the public, which government departments could do, but certainly not for the \$50,000 in government funding NTQ currently receives;
- community engagement through its 7,000-strong membership, which government departments cannot do; and
- providing heritage advice to government, without contributing to 'red tape', which does not duplicate the role of the heritage statutory authority, the Queensland Heritage Council.¹⁸³

The NTQ (S27) is keen to facilitate a review of relevant legislation to help improve governance. The Reviewers recommend such a review by Government should consider NTQ becoming a non-government organisation instead of its current Queensland Government statutory body form. (NTQ is referred to as a community organisation now due to its advocacy role and its grass roots community engagement even though it is a non-departmental government body). A non-government organisation would not be disadvantaged in its fundraising and in seeking grant funding.

To facilitate that change, the Reviewers recommend that:

- Heritage **listings** function should continue through the Queensland Heritage Register (Queensland Heritage Council), at the national level and at the local level (local government) but that the NTQ function of heritage listing would no longer be required.
- Equivalent **land tenure** arrangements should be made whereby the properties owned and managed by NTQ currently (which are all freehold) are gifted to the new non-government organisation on strict property covenant terms to protect their heritage value and to require the Governor in Council's approval before sale of a property is proposed. (Currently, Governor in Council's approval is required¹⁸⁴ before sale of property by the NTQ.)
- The **Currumbin Wildlife Sanctuary** which is a statutory authority administered by the NTQ (in its capacity as a statutory body) should be either divested to community form¹⁸⁵ or enabled to operate in its own right by suitable form within the Environment portfolio.

¹⁸³ S27 National Trust of Queensland.

¹⁸⁴ National Trust of Queensland Act 1963, s.23.

¹⁸⁵ The terms of its 'gift' to Queensland would need to be considered.

RECOMMENDATION 88:
National Trust of Queensland

The National Trust of Queensland should become a non-government organisation instead of a government statutory body acting as a community organisation. It should no longer perform heritage listings; it should benefit from equivalent land tenure arrangements (by strict covenant) for the properties it currently owns and maintains; and it should be divested of responsibility for the Currumbin Wildlife Sanctuary.

The Currumbin Wildlife Sanctuary should be divested to community form or enabled to operate in its own right by suitable form within the Environment portfolio.

Premier's Council on Climate Change

This is a high-profile body with eminent membership that provides advice on a key issue. Given its importance the Reviewers recommend the status quo in respect of the Premier's Council on Climate Change, although the Reviewers believe there should be a review of the size and composition of the membership within its first two years.

RECOMMENDATION 89:
Premier's Council on Climate Change

Status quo. There should be a review of the size and composition of the membership within its first two years.

Queensland Heritage Council

The Queensland Heritage Council is Queensland's peak heritage body and provides high-level advice to the Minister on heritage matters in addition to deciding which places should be entered into the Queensland Heritage Register. The Council is necessarily independent of the Government of the day as it is responsible for conserving Queensland's cultural heritage for the benefit of the community and future generations.

RECOMMENDATION 90:
Queensland Heritage Council

Status quo.

Queensland Sustainable Energy Advisory Council

This body provides independent, impartial and objective advice to the Minister on funding of projects through two separate Funds. The Reviewers received a submission relating to this body from Dr Martin Gellender¹⁸⁶ although his submission also raised broader issues relating to the appointment and oversight of Ministerial Advisory Councils. Given the importance of the independent nature of the advice provided by the Queensland Sustainable Energy Advisory Council, the Reviewers recommend the status quo (including for remuneration).

RECOMMENDATION 91:
Queensland Sustainable Energy Advisory Council

Status quo.

Queensland Youth Environment Council

The Reviewers are of the view that the Queensland Youth Environment Council should be merged with the Queensland Youth Council (see Chapter 8 of this report for details of the Queensland Youth Council). The issues of interest currently covered by the Queensland Youth Environment Council can in future be covered by the Queensland Youth Council, which looks at a wider array of issues affecting the youth sector.

RECOMMENDATION 92:
Queensland Youth Environment Council

Abolish, with its functions transferred to the Queensland Youth Council.

South East Queensland Healthy Waterways Partnership Board

This is a body in which the State Government, local government, industry and other stakeholders work in partnership to achieve shared aims. The Reviewers are of the view the functions it provides are important and therefore recommend the status quo.

RECOMMENDATION 93:
South East Queensland Healthy Waterways Partnership Board

Status quo.

¹⁸⁶ S23 Dr Martin Gellender.

Tweed River Entrance Sand Bypassing Project Advisory Committee

This is an interjurisdictional body set up under an agreement with the New South Wales Government and also includes local government representation from the two States. The body serves a useful purpose and the Reviewers recommend the status quo.

RECOMMENDATION 94:

Tweed River Entrance Sand Bypassing Project Advisory Committee

Status quo.

5.5 Land

Surveyors Board of Queensland

This is a professional registration body for the surveying profession in Queensland.

If a reasoned assessment determined that Government still needed to be involved, the body would need to be independent of departments.

However, the Reviewers note the national reform of the health practitioner bodies suggesting an alternative national model and that other licensing bodies are on the Council of Australian Governments (COAG) reform agenda for a National Licensing System. The Reviewers also note that COAG is due to consider the (Commonwealth) Productivity Commission report on the Mutual Recognition Agreement and the Trans-Tasman Mutual Recognition Arrangement shortly. The Reviewers recommend that this body be included in a national registration reform for professional bodies.

RECOMMENDATION 95:

Surveyors Board of Queensland

Status quo, pending a move to national registration.

Valuers Registration Board of Queensland

This is a professional registration body for the valuers profession in Queensland.

If a reasoned assessment determined that Government still needed to be involved, the body would need to be independent of departments.

However, the Reviewers note that the licensing of Valuers is on the Council of Australian Governments (COAG) reform agenda for a National Licensing System. The

Reviewers also note that COAG is due to consider the (Commonwealth) Productivity Commission report on the Mutual Recognition Agreement and the Trans-Tasman Mutual Recognition Arrangement shortly. The Reviewers support that this body is included in the national registration reform and remain as now until the outcomes of the reforms.

RECOMMENDATION 96:
Valuers Registration Board of Queensland

Status quo, pending the Council of Australian Governments' reform decisions.

Land and Resources Tribunal

In September 2007 most of the jurisdiction of the Land and Resources Tribunal was conferred upon the Land Court.

The Tribunal's jurisdiction with respect to the Alternative State Provisions (ASP's) is preserved to the extent that it is required to protect the rights and interests that arose before 31 March 2003 ensuring applications are processed under the pre-existing ASPs. That is, under the *Native Title Act 1993* (Cth), States and Territories can set up alternative regimes to resolve native title matters. In 2000, the Queensland Government set up a system to deal with mining and exploration applications over areas where native title might exist and these were processed in the Tribunal.

Amendments to the *Land Court Act 2000* allows for acting appointments to be made to allow this jurisdiction to be exercised.¹⁸⁷ There is also a repeal clause which retains the *Land and Resources Tribunal Act 1999* until 31 December 2011.

A submission from the Acting President (S32)¹⁸⁸ sought that this body be excluded from the Review. That contention is beyond the Reviewers' scope to determine as the list was settled by Government and annexed to our Terms of Reference.

The Reviewers agree with the 'sunset' clause being exercised.

RECOMMENDATION 97:
Land and Resources Tribunal

The Tribunal should be retained until its functions expire in 2011 and the Tribunal is abolished.

¹⁸⁷ Land Court and Other Legislation Amendment Bill 2007.

¹⁸⁸ S32 Land and Resources Tribunal.

Land Tribunal (Aboriginal)

This Tribunal was established to hear claims by groups of Aboriginal people to land declared available for claim (either unallocated State land or National Park) and makes determinations and recommendations to the Minister for Natural Resources and Water. There are two claims remaining for determination; once these have been processed this tribunal can cease to operate.

A submission from the Chairperson of the Land Tribunal (Aboriginal) (S34)¹⁸⁹ sought that this body be excluded from the Review. That contention is beyond the Reviewers' scope to determine as the list was settled by Government and annexed to our Terms of Reference.

The Reviewers agree with the 'sunset' clause being exercised on completion of the adjudication of matters.

RECOMMENDATION 98: Land Tribunal (Aboriginal)

The Tribunal should be retained until it has dealt with the remaining two matters on which it is required to adjudicate and then it should be abolished.

Land Tribunal (Torres Strait Islander)

This Tribunal was established to hear claims by groups of Torres Strait Islanders to land declared available for claim. No land has been made available for claim. This Tribunal is not required and the Reviewers support the Department's advice that this Tribunal has no other functions to perform and is therefore not required.¹⁹⁰

A submission from the Chairperson of the Land Tribunal (Torres Strait Islander) (S34)¹⁹¹ sought that this body be excluded from the Review. That contention is beyond the Reviewers' scope to determine as the list was settled by Government and annexed to our Terms of Reference.

The Reviewers support the department's advice that this Tribunal can now be abolished as it has no ongoing functions to perform.

RECOMMENDATION 99: Land Tribunal (Torres Strait Islander)

Abolish.

¹⁸⁹ S34 Land Tribunal (Aboriginal).

¹⁹⁰ Department of Justice and Attorney General – Audit Return, September 2008.

¹⁹¹ S34 Land Tribunal (Torres Strait Islander).

Land Court

This court is responsible for hearing matters associated with land disputes between the State and others including appeals against valuation, disputed claims for compensation relating to land acquisitions, appeals against water works licensing and appeals relating to other land related matters.

A submission from the President of the Land Court (S33)¹⁹² sought that this body be excluded from the Review. That contention is beyond the Reviewers' scope to determine as the list was settled by Government and annexed to our Terms of Reference.

The Reviewers agree that this court of record is required.

RECOMMENDATION 100:

Land Court

Status quo.

State Rural Leasehold Land Ministerial Advisory Committee

This body was established in August 2008 and has only recently started to meet. Its role is primarily to provide advice relating to the State-wide management and use of rural leasehold land. It will monitor implementation of what is known as the Delbessie agreement, an agreement on land use developed by the Queensland Government, Agforce and the Australian Rainforest Conservation Society. Membership of advisory bodies should not be remunerated (see 3.3.1 Committees and Councils, pp. 38-39).

The Reviewers agree that this body should continue.

RECOMMENDATION 101:

State Rural Leasehold Land Ministerial Advisory Committee

Status quo, except membership of advisory bodies should not be remunerated.

¹⁹² S33 Land Court.

Trustees of the Parklands Gold Coast

The body manages the Parklands Gold Coast venue which hosts various events, including harness racing and the annual 'Big Day Out' concert. The Reviewers agree that there is a need for this function to be performed in its current form.

The Reviewers noted the Trustees' submission (S9) advising on its functions.¹⁹³

RECOMMENDATION 102:
Trustees of the Parklands Gold Coast

Status quo.

¹⁹³ S9 Trustees of the Parklands Gold Coast.

6. Infrastructure

Where once delivery of major infrastructure projects was project-managed by government departments and constructed by the private sector, the company form now dominates as part of a stated-

context of broader changes in public sector management, which have been designed to increase the efficiency and effectiveness with which resources are used. In this regard, the use of independent commercial entities provides greater incentives to those entities to appropriately manage costs and improve the quality of goods and services provided.¹⁹⁴

When auditing infrastructure entities, the Auditor-General said in 2007-

In Report No. 4 for 2005, I commented on the growing number of companies in the Queensland public sector being used for carrying out government business. In Queensland, the attraction of the company structure seems to have flowed in part from a desire to capture the perceived benefits from a more commercial focus for the entity.

In my view Parliament needs to be given assurance that appropriate governance and accountability is in place for all public sector entities, regardless of size and type. I continue to raise issues regarding the governance of public sector companies as I believe this is an area of governance weakness in the overall accountability framework as it currently exists in Queensland.

I acknowledge that there will be circumstances where the use of a company structure is appropriate, however, taking into account the fact that companies now account for a relatively high proportion of the public sector entities within my mandate, I have reservations that such a structure could be appropriate in all cases to achieve the outcome that is actually required.

In 2008, the Auditor-General continued-

Section 2.3 of Report No. 5 for 2007 Results of Audits as at 31 May 2007 tabled in Parliament on 9 August 2007 detailed the results of my infrastructure project evaluation for the year ended 30 June 2007. The report highlighted that it was imperative that entities, particularly the Department of Infrastructure and Planning focus on:

- project governance
- transparency and accountability for the infrastructure costs and related strategies through all phases of the infrastructure life-cycle
- probity and propriety of the procurement process supporting infrastructure project expenditure

¹⁹⁴ Department of Main Roads - Audit response, November 2008, p. 8.

- consistency with State procurement and infrastructure policies and guidelines
- risk management
- reporting and communication.

In Report No. 5 for 2007, I also noted that there was a need for greater rigour around the decision making process when determining the best type of entity to deliver the most effective outcome for the government and the community. These matters remain important in the current environment as the capital outlays for 2006-07 were \$10.3b, and over the period 2008-2026 are estimated to be \$107.45b (originally estimated at \$82.45b).

By continuing to undertake audits of compliance with infrastructure strategies, plans, charters, frameworks, policies and guidelines, I am able to provide additional assurance that the processes in place to control the cost of infrastructure activity are appropriately established and comply with applicable requirements.

6.1 Main Roads

City North Infrastructure (CNI) Pty Ltd

City North Infrastructure (CNI) Pty Ltd is said by a shareholding department to have been established as part of this 'broader context'. CNI is a wholly State Government-owned Special Purpose Vehicle (SPV) company under the Corporations Law to undertake contractual activities and compliance management for the Airport Link, Northern Busway (Windsor to Kedron) and Airport Roundabout Upgrade Projects. Under the company constitution, this includes managing the procurement process; recommending the bidder shortlist; evaluating bids and awarding the contract; negotiating with directly affected land owners; managing land acquisition, resumption and compensation processes.

CNI has six board members and 31 (full-time equivalent) staff and a total expenditure budget of \$474.8m in 2008-09 directed '100% towards design and construction of assets, including compliance with conditions of approval'. CNI received one stand-alone budget increase (other than its initial funding) in 2008.¹⁹⁵

The Reviewers have not been persuaded of a public interest case that justifies the creation of a company to undertake these Queensland Government activities. The Reviewers main concern relates to public interest risk.

Procuring and awarding contracts, land resumptions from citizens, and compliance management are *high risk core government* functions which require the highest standards of accountability and probity, economy, efficiency and effectiveness to safeguard the public interest. The sensitive nature of these activities and

¹⁹⁵ Department of Infrastructure and Planning – Audit Response, December 2008, p. 2.

corresponding public interest risks also typically expose responsible ministers to the electorate's attention for any performance concerns. Public service values and operating environment (e.g. procurement policies, codes of conduct, transparency and accountability frameworks, including Parliament) are designed to safeguard specifically such essential public interests and monitor performance.

The combination of these three projects (worth approximately \$4.8bn) makes for Australia's largest road infrastructure project and its largest Public Private Partnership (PPP) project.

Procurement of a single infrastructure project to this value has not been managed by the State before, so the company form was preferred. This is so even though there was no precedent either for a company form managing the scale of this procurement activity with essentially public monies. The requisite experience and expertise to govern and deliver the project was found in the ranks of the public service. Five of the six board members are senior public servants (four from the State and one from the Brisbane City Council). Senior staff appointed to CNI including the chief executive officer had been in senior roles within government.¹⁹⁶

The Reviewers note that there are departmental resources dedicated to monitoring or overseeing the activities of CNI. To some extent at least, this must involve duplication of activity and therefore of resources.

The Review's initial audit process (in August 2008) asked of all bodies what their 'performance measures were' and what were 'the most recent results'. The responsible portfolio response from the department advised that 'there are no formal performance measures – the body is required to obtain financial close for the three projects' which is expected by 2012.

The Reviewers note that BrisConnections is delivering all three projects and that recent media alleged-

NICHOLAS Bolton, the largest unitholder in the troubled BrisConnections, has requisitioned a unitholders meeting to try to wind the group up...If BrisConnections decides Mr Bolton's requisition is valid it must call a meeting within 21 days, which would then take place in the ensuing 28 days. At such a meeting, if necessary, Mr Rowe [chairman] said BrisConnections would "vigorously defend" itself against being wound up which he said was not in the interests of any shareholders. "In the event of winding-up proceedings BrisConnections would have no alternative but to cease trading."¹⁹⁷

In view of the Auditor-General's comments (as above – pp. 117-118) directed at such infrastructure companies and the nature and extent of public interest risk for the government functions to be undertaken by CNI, governance and performance

¹⁹⁶ City North Infrastructure Pty Ltd Annual Report 2007-2008 pp. 15-18.

¹⁹⁷ Grant-Taylor, T., 'Biggest shareholder wants to wind up BrisConnections', *The Courier Mail*, 17 February 2009.

accountability frameworks should be to the highest standards and a critical ongoing priority.

RECOMMENDATION 103:

City North Infrastructure (CNI) Pty Ltd:

The functions of the City North Infrastructure (CNI) Pty Ltd should be transferred to a suitable departmental form (such as a specific purpose cross-portfolio office or project taskforce dedicated to the same activities and including the appropriate level of Brisbane City Council involvement), subject to an overriding cost-benefit analysis that it would be contrary to the public interest to do so mid-project.

Governance and accountability frameworks should be of the highest standard and a continuing priority in view of the public interest risks attendant the nature and extent of the projects involved.

The entity delivering the CNI functions should be wound up on completion of the specified projects.

Queensland Motorways Ltd

Queensland Motorways Ltd – Logan Motorway Company Ltd

Queensland Motorways Ltd – Port Motorway Ltd

Queensland Motorways Ltd – Queensland Motorways Management Pty Ltd

Queensland Motorways Ltd – The Gateway Bridge Company Ltd

These five companies were established to develop, own, operate, toll and manage road transport infrastructure and associated technologies. The Reviewers were satisfied that the Threshold Test was met but questioned the need for company form over the preferred statutory body (statutory corporation) form, and the need for five different entities instead of just one.

Regardless of the respective merits of a statutory body compared with company form, the Reviewers accept that conversion to statutory body form would not be justified in cost and value terms at this stage in the entities' lifecycles and projects. The Reviewers are also satisfied that the creation of the subsidiary companies was for valid and specific reasons to facilitate QML's commercial strategy and specific arrangements have been made already so that they impose little or no additional administrative burden or cause customer confusion.

Again, governance and performance accountability frameworks should be to the highest standards and a critical ongoing priority given the Auditor-General's comments concerning the infrastructure companies and the size of the enterprise (it owns and manages assets valued at over \$1.53bn, borrowings have increased 46% to \$1.9bn as the Gateway Upgrade Project (valued at \$1.88bn) and free tolling projects gather momentum).¹⁹⁸

¹⁹⁸ Queensland Motorways Ltd Annual Report 2008, pp 2,5,6 and 10.

RECOMMENDATION 104:**Queensland Motorways Ltd****Queensland Motorways Ltd – Logan Motorway Company Ltd****Queensland Motorways Ltd – Port Motorway Ltd****Queensland Motorways Ltd – Queensland Motorways Management Pty Ltd****Queensland Motorways Ltd – The Gateway Bridge Company Ltd**

No change to organisational form is recommended for the Queensland Motorway Ltd and its four subsidiaries at this time.

Governance and accountability frameworks should be of the highest standard and a continuing priority in view of the public interest risks attendant the nature and extent of the projects involved.

Transmax Pty Ltd

The objective of Transmax Pty Ltd is to enhance and market the STREAMS traffic management system, which is multifunctional intelligent transport system that provides freeway, traffic signal and incident management as well as driver and passenger information capabilities. The Reviewers agree that there is a need for this specialised function to be performed in its current form to meet the requirements to operate not only within Queensland but nationally and internationally.

RECOMMENDATION 106:**Transmax Pty Ltd**

Status quo.

6.2 Transport

Dalrymple Bay Coal Terminal Holdings Pty Ltd

Dalrymple Bay Coal Terminal (DBCT) is located at the Port of Hay Point, 38km south of Mackay and was established in 1983 by the Queensland Government as a common user coal export facility. DBCT exports approximately 6% of the world's seaborne coal trade making it Queensland's largest export coal terminal.

In 2001, the Queensland Government awarded a long-term lease for DBCT (50-year term with a 49 year renewal option) to a consortium now known as Babcock and Brown Infrastructure Ltd.

Dalrymple Bay Coal Terminal Holdings Pty Ltd is a proprietary company established by the Government specifically to act as lessor of the Dalrymple Bay Coal Terminal to Babcock and Brown Infrastructure Ltd.

The company is limited by shares which are jointly owned by Queensland Treasury Holdings Limited, a company owned by Queensland Treasury, and Transport Holdings Queensland Pty Limited, a company owned by the Department of Transport.

The Queensland Ports Corporation manages 13 ports in Queensland. The only port not managed by a Government Owned Corporation is the one managed by Dalrymple Bay Coal Terminal Holdings Pty Ltd.

The *Dalrymple Bay Coal Terminal (Long Service Lease) Act 2001* contemplates the appropriateness of at least two alternative entity forms providing that either the Queensland Ports Corporation or the State of Queensland (a department can act on behalf of the State) can undertake the same function as Dalrymple Bay Coal Terminal Holdings Pty Ltd. The Reviewers consider that either of these existing form options should take on the lessor role and responsibilities in preference to maintaining this additional company form for the duration of the 99 years of lease.

RECOMMENDATION 107:

Dalrymple Bay Coal Terminal Holdings Pty Ltd

Dalrymple Bay Coal Terminal Holdings Pty Ltd should be wound up and its functions transferred to the Ports Corporation Queensland as first preference (alternatively, to a department), as contemplated under the *Dalrymple Bay Coal Terminal (Long Service Lease) Act 2001*, subject to legal and accounting advice that provides for the interests of the lessee (and sub-lessees), and addresses any competitive neutrality concerns and any adverse financial implications arising.

Marine Board

The Marine Board is an advisory body to the Minister for Transport on matters affecting the maritime industry in Queensland.

Specifically, the Board is to advise the portfolio Minister about marine safety issues and the referral of marine incidents to a board of inquiry. The Board may also advise the department on draft standards and exemptions under s.18A (exempting persons or ship from regulatory provision) of its enabling legislation, the *Transport Operations (Marine Safety) Act 1994*.

The Marine Board may be up to six members and is supported by a secretariat employed by Maritime Safety Queensland. Expenditure for the 2007-08 year totalled \$221, 683 (meeting fees, staffing and oncosts, travel and accommodation expenses).

This advisory body undertakes similar functions to the department and a marine industry forum hosted by Maritime Safety Queensland. The Department advised-

A recent unrelated survey of the maritime industry indicated a low level of industry knowledge of the role of the Marine Board and a low level of engagement with the Marine Board...

To a large extent, the advice offered by the Marine Board to the Minister is guided by policy or information provided to it by the department...

On the rare occasions that the Minister seeks independent advice, it would be possible to engage existing peak marine industry bodies for this purpose...

At a national level, the development of nationally uniform marine safety standards and legislation is guided by an Industry Advisory Committee made up of representatives from the various sectors of the marine industry. The Industry Advisory Committee performs a similar role to the Marine Board with respect to the development of these national standards.¹⁹⁹

As an advisory body, remuneration of members is not supported (see 3.3.1 Committees and Councils, pp. 38-39). In any event, there is no compelling reason to justify the continuation of this body additional to the department (and other existing consultation mechanisms).

RECOMMENDATION 108:

Marine Board

Abolish. The *Transport Operations (Marine Safety) Act 1994* should be amended accordingly.

Queensland Road Safety Committee

The Queensland Road Safety Committee is a ministerial advisory committee on matters, strategies and plans affecting road safety.

The Department supports its role as a valuable consultation opportunity via a convenient and timely forum with key stakeholders on issues and policy initiatives pertaining to road safety. The Department regards the Committee's work as supplementary to work undertaken by the Department and it can be distinguished from the work of the Parliamentary Travelsafe Committee through its public inquiries into specific issues over a parliamentary term. The Committee has no direct budget allocation as minimal costs and no remuneration.

The Reviewers accept that the Department regards the Committee as a valid and cost-effective consultation mechanism for the Department, and the Government. However, in July 2008, Transport Ministers agreed to propose that the Council of Australian Governments (COAG) establish a National Road Safety Council (NRSC)

¹⁹⁹ Queensland Transport – Audit Response, August 2008, p. 6.

subject to consideration of Terms of Reference (ToR) and an Inter-Governmental Agreement (IGA). In November 2008, the Transport Ministers settled an Intergovernmental Agreement for COAG consideration in early 2009. The role of the national council is to bring together a high level group of key community leaders and experts to help raise the profile of road safety and forge critical partnerships across relevant government, industry and community sectors. This new group is expected to harness the expertise and resources of relevant stakeholders to support the implementation of National Road Safety Strategies, Action Plans and other initiatives agreed by the Australian Transport Council Ministers.²⁰⁰ The Queensland Road Safety Committee will be effectively replaced by the new national council and therefore should be abolished to avoid a duplicative state structure.

RECOMMENDATION 109:
Queensland Road Safety Committee

Abolish upon the commencement of the new National Road Safety Council.

Queensland Transport and Logistics Council

This new body will no longer be established by Government. It is to be established by the private sector instead.

RECOMMENDATION 110:
Queensland Transport Logistics Council

That this body will now be established by the private sector, instead of Government, is noted.

Translink Transit Authority

Under the *Transport Operations (TransLink Transit Authority) Act 2008*, the Translink Transit Authority commenced operations in July 2008. It is responsible for managing public transport in South East Queensland to achieve an efficient and effective transport system with a single point for customer interaction and accountability.

In his second-reading speech, the responsible Minister said-

The new TransLink Transit Authority is not just a cut and paste where the old TransLink is recreated as an independent authority. During the design of the new TransLink Transit Authority, a number of interstate and international

²⁰⁰ National Transport Commission, www.ntc.gov.au/viewpage.aspx?documentid=1757

models for integrated passenger transport best practice were considered. While the TransLink Transit Authority benefits from the experiences of some of these other jurisdictions, the new authority does not replicate any one of the other models—instead it has been designed to suit the needs of south-east Queensland.

The delegation provides the Chief Executive of the Authority with full control and influence of service contracts in the TransLink area and allows the Authority to act independently so that public transport operators will be dealing directly with the Authority and not Queensland Transport.

So how will the average commuter benefit from the creation of the new TransLink Transit Authority? By bringing responsibility for the management of mass transit services under the one umbrella, one of the best outcomes will be coordinated scheduling of transport modes...

So what will Queensland Transport be responsible for? Mr Speaker, while the TransLink Transit Authority will be the key government agency responsible for public transport services in south east Queensland, Queensland Transport will continue to be responsible for state-wide public transport policy and the overall transport system in Queensland. The state government, through Queensland Transport, will continue to be responsible for integrated regional transport planning, strategic transport planning and corridor planning. Queensland Transport will work collaboratively with the Authority to develop and coordinate public transport policy for the entire State. This will mean better public transport policies and outcomes for all Queenslanders.²⁰¹

This entity combines a range of functions previously delivered across government. Its objectives contend that the organisational capability advantages and public interest risks in efficiency and effectiveness provide compelling reasons to create this additional government body as (appropriately) a statutory body with an independent governing board. Continuation of this body should now depend on proof of those original objectives in making the Public Interest Case but in its first year still of a major service delivery reform, it is too early to assess fairly.

Governance and performance accountability frameworks will be key in supporting those objectives and for the responsible Minister in accounting for the public interest. As the Part A Report contended, '...electors have proved a steady disregard for organisational form to afford any shield for the minister's responsibilities'.

While it is early days for the new Authority a timely, post-start-up, operational review would be appropriate within the year given the nature and extent of the impact of reform across government entities.

²⁰¹ Hansard, Second Reading Speech, Mickel, R.J., Minister for Transport, Trade, Employment and Industrial Relations, *Transport Operations (TransLink Transit Authority) Bill 2008*, 29 April 2008, pp. 1237-1239.

This review should include a check on the operation of external governance arrangements between all relevant government entities under the new reform to ensure alignment and optimum performance of respective roles, functions, and relationships. The Reviewers note the performance interdependencies for example between the Department of Transport (in providing Ministerial advice, and in the development of policy) and the new Authority (in independent management of mass transit services).

RECOMMENDATION 111:
Translink Transit Authority

Status quo with an operational review within two years of start-up.

6.3 Planning

Board of Architects of Queensland

This is the professional registration body for the architectural profession in Queensland.

A number of public submissions were received ranging from the Board (S85) and portfolio department (S87) disagreeing with the Queensland Building Services Authority's proposal (C21 and S54) to merge it into a new Queensland Building Commission, to the fair question put as to why Government still needs to be involved (S65).²⁰²

If a reasoned assessment determined that Government still needed to be involved, the body would need to be independent of departments and while the Reviewers disagree that the professional registration body should be merged with a Queensland Building Services Authority-type entity there might be some 'back of house' administrative savings in combining the Board with the Queensland Board of Professional Engineers.

However, the Reviewers note the national reform of the health practitioner bodies suggesting an alternative national model and that other licensing bodies are on the Council of Australian Governments' reform agenda for a National Licensing System. The Reviewers also note that COAG is due to consider the (Commonwealth) Productivity Commission report on the Mutual Recognition Agreement and the Trans-Tasman Mutual Recognition Arrangement shortly. The Reviewers recommend that this body be included in a national registration reform for professional bodies.

²⁰² S85 Board of Architects Queensland; S87 Department of Public Works; C21 and S54 Queensland Building Services Authority; S65 Queensland Treasury.

RECOMMENDATION 112:
Board of Architects of Queensland

Status quo but a move to national registration is recommended.

Board of Professional Engineers of Queensland

This is a professional registration body for the engineering profession in Queensland.

A number of public submissions were received ranging from the Board (S90) and portfolio department (S87) disagreeing with the Queensland Building Services Authority's proposal (C21 and S54) to merge it into a new Queensland Building Commission, to the fair question put as to why Government still needs to be involved (S65).²⁰³

If a reasoned assessment determined that Government still needed to be involved, the body would need to be independent of departments and while the Reviewers disagree that the professional registration body should be merged with a Queensland Building Services Authority-type entity there might be some 'back of house' administrative savings in combining the Board with the Queensland Board of Architects.

However, the Reviewers note the national reform of the health practitioner bodies suggesting an alternative national model and that other licensing bodies are on the Council of Australian Governments reform agenda for a National Licensing System. The Reviewers also note that COAG is due to consider the (Commonwealth) Productivity Commission report on the Mutual Recognition Agreement and the Trans-Tasman Mutual Recognition Arrangement shortly.

Queensland is the only state that has a State Board and a legislative requirement that a professional engineer has to be registered to practise in Queensland.

The National Engineering Registration Board was established jointly by the Institution of Engineers, Australia (Engineers Australia), the Association of Professional Engineers, Scientists and Managers, Australia (APESMA) and the Association of Consulting Engineers Australia (ACEA). The National Engineering Registration Board has representation from State and Territory Governments, community organisations and professional associations, and supervises the operation of National Register to ensure the community is provided with the protection it is entitled to expect in relation to work undertaken by those practitioners. Functions of the national board include adoption of codes of ethics, receipt of complaints, and applying disciplinary actions and sanctions. This approach is consistent with moves to national registration reform for other professional bodies.

²⁰³ S91 Queensland Division, Engineers Australia; S87 Department of Public Works; C21 and S54 Queensland Building Services Authority; S65 Queensland Treasury.

The Reviewers are therefore unpersuaded that the Public Interest Case can be made for the additional state body given the existing effective (resourced), high (and audited) standard of requirements for national registration with the National Professional Engineers Register (NPER) by the National Engineering Registration Board and Engineers Australia, and the Australian Institute for Mining and Metallurgy. A duplicate State register should not be maintained and the national register should be used.

The Reviewers note the existing Queensland legislation prohibiting persons who are not registered from offering or providing professional engineering services in Queensland. This sets Queensland apart from the other states in protecting consumers and should be maintained. A move to national reforms to legislate registration nationally is supported. The national board with its comprehensive functions and high standards of performance should be Queensland's pre-requisite for practice as a professional engineer. The State body duplicates functions.

RECOMMENDATION 113:

Board of Professional Engineers of Queensland

Abolish. Maintain current legislative requirements prohibiting persons who are not registered from practising in Queensland using the National Professional Engineers Register and not a duplicative register in Queensland.

Building and Development Tribunals (and Referees)

These Tribunals are established under the *Integrated Planning Act 1997*. Their objective is to provide an accessible, affordable and timely service for deciding appeals lodged by applicants who are dissatisfied with a local government or private building certifier's decision on development applications or an error in the calculation of a charge in an infrastructure charges notice.

Although the Department of Infrastructure and Planning performs the 'registrar' function, the dispute resolution function should be kept at 'arms length' from government through the continued use of the panel of 66 referees from which to constitute tribunals.

There is a public interest case justifying their continued review function independently from departments, but the nomenclature is misleading as the entity does not take, nor seeks to take, the form or legal style of a tribunal. It is more in the nature of a dispute resolution committee.

RECOMMENDATION 114:
Building and Development Tribunals (and Referees)

Status quo, except for changing the name to Building and Development Dispute Resolution Committee.

Gladstone Economic and Industry Development Board

This Board is to support investment attraction activities within the Gladstone region and promote the Gladstone State Development Area. Its functions are established by regulation under the *State Development and Public Works Organisation Act 1971*. At least six of the members of the eleven member Board are *government representatives* (four State Government and two local government representatives). The Board costs approximately \$673,000.²⁰⁴ There is also a unit within the Department of Infrastructure and Planning that supports the work of the Board. A compelling case establishing the need for this additional body and its cost has not been made.

RECOMMENDATION 115:
Gladstone Economic and Industry Development Board

Abolish.

Iconic Places Assessment Panels

These development assessment panels were created last year under the *Iconic Queensland Places Act 2008* to decide development applications (instead of the relevant local government) within declared iconic places which may have a substantial effect on a place's iconic values.²⁰⁵ Any decisions made by the Panels must accord with the *Integrated Planning Act 1997*. The areas declared as iconic places under the Act are: Noosa, Douglas, Blackall Ranges and Central Capricorn Coast (Livingstone localities).

A member of the Iconic Assessment Panels provided the following feedback in the review's survey of all chairs, members and chief executives, conducted in September 2008:

Iconic Panels are in the embryonic stage. Observations to date is that when the panels were announced the level of knowledge and back up by the

²⁰⁴ Department of Infrastructure and Planning – Audit Response, September 2008.

²⁰⁵ The purpose of the *Iconic Queensland Places Act 2008* (s.2) is to protect places with characteristics or qualities in their natural or built environment that reflect or contribute in a substantial way to Queensland's character.

relevant Department was limited...The intent of the legislation is not necessarily supported by well written legislation therefore this adds confusion and red tape to the process at hand. This impacts on legislative timeframes for the planning process for those LGs [local governments] involved and for panel members who are seeking to ensure the intent of the legislation and the characteristics of those iconic areas are upheld.

The level of departmental support (internally) is limited. Project officers appointed to each panel are doing a great job however they probably need to have support behind them to assist in expediting processes. It is clear a number of process issues had not been well thought out prior to the panels being appointed.

Governance surrounding the role out is an evolving issue and whilst this may sort itself out in good time not having a governance structure behind the operation impacts on the integrity of the process and the panel's operations. The State can ill afford to further impact on legislative timeframes in the planning process.

I acknowledge it is early days for the panels and it is probably too early to rate or comment on the effectiveness of the panels until there are a number of applications that come before the panels as Assessment Manager and no doubt panel decisions being tested in the Courts of which the State will need to be adequately resourced up to defend.

The Threshold Test for continuation of this new body depends on the criterion for 'essential public participation and consultation'. In its first year of operation, it is too early to assess fairly a Public Interest Case whether the Panels should be continued. However, an operational review should be conducted within two years of the new process and new Panels to ensure optimum performance against objectives, appropriate governance arrangements (including integrity priorities e.g. Code of Conduct support due to the nature of the activities) and to guard against excess bureaucracy and red tape.

Consistent with the Reviewers' recommendation for *all* government bodies, regular review of the Public Interest Case should occur, in the absence of a sunset clause (see recommendation 1, pp. 28-29, 60, and Appendix A).

RECOMMENDATION 116:
Iconic Places Assessment Panels

Status quo with an operational review within two years of start-up.

Local Government Electoral and Boundaries Review Commissions

These Commissions are constituted on an 'as needed' basis under the *Local Government Act 1993* to investigate and make determinations on 'reviewable matters' (local government boundaries and electoral divisions). None of the pool of 22 Review Commissioners was called upon during the three year term, due in part to the local government reform process for which a special commission was established.

In the early 1990s, the former Electoral and Administrative Review Commission recommended that the functions be undertaken by an *independent* body. The Reviewers agree, but consider that the existing independent Electoral Commissioner should be transferred the functions and establishment of the Commission. The Electoral Commissioner (S20) submitted that the Commission-

...is generally constituted by the Electoral Commissioner or in special circumstances, by a judge or former judge of a court of the Commonwealth or a State or Territory, a chief executive of a department, and the Electoral Commissioner.

While the Commission may appear to be a separate statutory body, it is in reality a function of the Electoral Commission of Queensland. I believe that the current process has proven to be both efficient and effective, and I propose that no changes are made which may adversely affect the integrity and independence of the necessary regulatory function.²⁰⁶

The Department of Local Government, Sport and Recreation advises that proposed legislative changes (in the – now lapsed²⁰⁷ - *Local Government Bill 2008*) streamlined the process for dealing with changes to local government areas and supported the Reviewers' recommendation.

RECOMMENDATION 117:

Local Government Electoral and Boundaries Review Commissions

The functions and establishment of the Commission should be transferred to the Electoral Commissioner, to be overseen as an independent arbiter.

Local Government Grants Commission

This body is to recommend to the Minister the allocation of federal funding to local governments.

²⁰⁶ S20 Electoral Commission Queensland.

²⁰⁷ The Legislative Assembly of Queensland was dissolved on 23 February 2008.

It is a federal government requirement for all jurisdictions that a department is not to undertake the functions and that the name and form of the body is a Local Government Grants Commission.

RECOMMENDATION 118:
Local Government Grants Commission

Status quo.

Local Government Remuneration Tribunal

Essentially, the current role of the body is to establish categories of local governments, categorise local governments according to the established categories and determine the remuneration of mayors, deputy mayors and councillors every year. The remuneration tribunal must, at least every four years, review the categories of local governments established. Tribunal members are appointed for a period of three years and are eligible to be considered for reappointment.

Most other states have an independent body to oversee remuneration for local government councillors and mayors.

The necessary degree of independence, transparency and accountability provided by the Tribunal satisfies the Threshold Test. A more suitable form would be a panel established as needed to undertake the remuneration and local government categories reviews as needed.

The (now lapsed) *Local Government Bill 2008* proposed to expand the Tribunal's role to include hearing and deciding the most serious complaints of misconduct by a councillor. Regional conduct review panels (determined by departmental regions not local government boundary regions) that would replace the existing conduct review panels established by local governments will generally hear and decide on complaints of misconduct by councillors.

The Bill also proposed the establishment of a Ministerial Ethics Committee (an advisory body of five members to use as a sounding board).

The Bill's proposal to establish additional bodies does not necessarily accord with the *Public Interest Map*. It is considered that there are other options using existing bodies available to the Minister and the Department to achieve the objectives of the proposed Bill.

The Reviewers recommend that the Minister should be able to seek ethical and integrity advice on matters associated with local government councillors from the independent Integrity Commissioner. This would require a legislative amendment to

the *Public Sector Ethics Act 1994* to expand the Integrity Commissioner's ability to provide the advice to the Minister for Local Government.

RECOMMENDATION 119:

Local Government Remuneration Tribunal

Status quo with a change in form to establish a panel that can be formed on an as needs basis to undertake the reviews.

Any proposed changes to the Tribunal and the other bodies dealing with codes of conduct/disciplinary matters as proposed in the Local Government Bill 2008 should be assessed against the *Public Interest Map* (see Appendix A).

The proposed Ministerial Ethics advisory council should not be established. It is recommended that the *Public Sector Ethics Act 1994* be amended to give the Integrity Commissioner powers to give advice to the Minister for Local Government on ethical and integrity issues associated with local government councillors.

Plumbers and Drainers Board

This Board is to administer the licensing system for plumbers and drainers, undertake training, enforce legislative requirements and promote standards of competencies.

There is no compelling reason for this activity to be done separately from the existing Queensland Building Services Authority that already performs similar functions and would streamline public access to the one body.

The structure of the Queensland Building Services Authority is an integrated regulatory model comprising a strict licensing regime and compliance activities, contractor and consumer education and dispute management. As well as licensing building and trade contractors... the BSA also registers private certifiers, audits their activities and investigates complaints.²⁰⁸

RECOMMENDATION 120:

Plumbers and Drainers Board

Abolish, and transfer the functions of the Plumbers and Drainers Board to the Queensland Building Services Authority.

²⁰⁸ C21 Queensland Building Services Authority

Queensland Building Services Authority (QBSA)

The QBSA is a statutory body regulating the Queensland building industry. It is self-funded through licence fees and other fees for service.²⁰⁹

The QBSA (C21 and S54) submitted that the regulation of the building process is fragmented across government resulting in 'unnecessary red tape and compliance costs for business, confusion for consumers and significant administrative inefficiencies for government. The QBSA proposed that all licensing agencies and registration Boards relevant to the Queensland building and construction industry be merged into a single regulatory agency (possibly called the Queensland Building Commission).

Various stakeholders' positions were put, and detailed public submissions were received, in discussion of QBSA's proposal.

The Reviewers determine that –

- one other body's existing functions should be merged into the QBSA: plumbers and drainers' registration (but any policy functions is to be performed by, and through, the relevant department);
- the policy functions currently undertaken by Building Codes Queensland should remain with the department;
- the professional registration bodies for architects and engineers should not be merged into an expanded QBSA;
- gas work licensing related activities should not be included as a number of gas licensing functions do not directly relate to buildings; and
- the QBSA Board should be a governing board and the General Manager role therefore is accountable to, and reports through, the governing board to the responsible Minister.

RECOMMENDATION 121: Queensland Building Services Authority

The functions of the Plumbers and Drainers Board should be merged into the QBSA.

The QBSA should be a governing (not an advisory) board and the chief executive should be accountable to, and report through, the governing board to the responsible Minister. Any advisory responsibilities be transferred to the relevant government departments.

Queensland Future Growth Corporation

This body is a corporation sole established by the *Future Growth Fund Act 2006* and is excluded from the Corporations Law. The corporation sole is constituted by the

²⁰⁹ C21 Queensland Building Services Authority

Under-Treasurer who is responsible for administering the fund including providing funding and investing money from the fund (at the corporation's discretion or as directed by the Treasurer).

The objects of the fund are to provide funding for initiatives or infrastructure benefiting Queensland (developing new technologies for mitigating climate change such as clean coal technology, infrastructure relating to water, energy supply, railways and ports) or with the approval of the Treasurer, for things benefiting Queensland other than initiatives or infrastructure. The proceeds of the sale of the State's energy supply assets have been invested in the fund which operates separately from the State Budget.

All the administration support is provided by Queensland Treasury.

There is no compelling reason – organisational capability, independence, public interest risk or essential public participation and consultation – to justify the additional expenses incurred by a corporation sole form when the same personnel can achieve the same objectives, including quarantining of the future fund from other operating funds of the government, under existing rules and arrangements. (see pp. 41-42)

RECOMMENDATION 122:
Queensland Future Growth Corporation

Subject to any overriding tax or accounting penalty arising from transfer of funds, the corporation sole should be wound up and the functions transferred to Queensland Treasury for quarantining funds from operating funds and for separate account and reporting.

South Bank Corporation

The South Bank Corporation was established to provide for the development and management of the South Bank Corporation area (the former Expo 88 site).²¹⁰

The Corporation in its 2008-09 Annual Report identified that its responsibility includes: promoting, facilitating, carrying out and controlling the development, disposal and management of land and other property under the Corporation's control.

South Bank Corporation has achieved its objectives to redevelop the Expo 88 site. A review of the *South Bank Corporation Act 1989* is required to determine the nature and extent of an ongoing role for the body and whether there is a Public Interest Case for its continued existence. Such review would need to include a consideration of the roles and functions of relevant Government departments.

²¹⁰ *South Bank Corporation Act 1989*.

RECOMMENDATION 123:**South Bank Corporation**

Status quo pending a review of the *South Bank Corporation Act 1989* to assess the nature and extent of an ongoing role for the Corporation and whether there is a Public Interest Case for its continued existence.

Urban Land Development Authority

Established under its own legislation in 2007, this body is to plan, develop and manage land in urban development areas, for urban purpose and make decisions on urban development area applications and coordinate the provision of infrastructure for urban development areas. The body serves an essential public participation and consultation public interest need. Under its enabling legislation, there is a five year review period from commencement.

RECOMMENDATION 124:**Urban Land Development Authority**

Status quo.

Water Infrastructure bodies have been reported under Chapter 5.1.

7. Law and Justice

The Law and Justice sector accounts for the smallest number of government bodies under review with just 4.5% of the total (20 of 459 bodies).

The doctrine of the separation of powers and the primacy of the rule of law impress heavily on the need for functional independence from the Government of the day for many of the activities conducted in this sector that concern for example the courts, police, crime and sentencing. For the non-departmental bodies under this Review, the *Public Interest Map* puts to test whether there is a genuine connection to that imperative for arm's length activity.

7.1 Legal

Appeal Costs Fund Board

This Board is a good example of a body that appears efficient and effective in the performance of its functions²¹¹, but there is no *compelling* reason why its form should continue to be separate from the department. (see pp. 7, 21-29)

The secretariat function for the Board is performed by a departmental officer. One member of the Board is a member of the Bar Association of Queensland and another is a member of the Queensland Law Society. The Chair of the Board is usually an officer of the Department and is required to have a high level of general administrative experience, budgetary experience, legal and or costs assessment experience in line with the functions of the Board.²¹²

Appeal costs payments are for the reimbursement of certain costs. Interstate comparisons of the similar function are varied. In South Australia, the Attorney-General makes the decisions and in Victoria there is also a board. Given the nature and extent of departmental responsibility in the Board process, the function should be transferred back to the department.

The Department advised that currently-

frequency and level of reporting outcomes is at the lower end of the scale with the Queensland Audit Office external review process the only mechanism by which the outcomes and process of the Board are monitored and reviewed.

²¹¹ The Reviewers noted review survey feedback citing the 'high percentage of applications filed by legal representatives' as indicative of a process affording 'nil red tape': Review Survey (September 2008).

²¹² Department of Justice and Attorney-General – Audit Response, September 2008, p.4.

Transfer of the function back into the department would also benefit from departmental governance frameworks, resourcing plans and internal audit, in the usual course. A consideration of review rights to the Queensland Civil and Administrative Tribunal would be appropriate.

RECOMMENDATION 125:
Appeal Costs Fund Board

Abolish, with the function transferred back into the department. Review rights to the Queensland Civil and Administrative Tribunal should be considered.

Board of Trustees of the Funeral Benefit Trust Fund

This statutory body governs the fund established in 1942 for contributions payable on funeral benefit agreements entered into from 1939 to 1973 by two specific (private sector) companies. Historically, the fund was established to protect the disadvantaged and elderly who had prepaid their funeral expenses by depositing money with funeral business operators.

The Department of Justice and Attorney-General currently supports the administration of the fund for a fee. The Director-General is the Registrar of the fund and there is a four member board of trustees. The State Actuary conducts actuarial valuations for the fund.

Subject to maintaining industry representation in the administration of the fund, the Department of Justice and Attorney-General agrees that the board of trustees could be abolished and the functions transferred to the Department.

RECOMMENDATION 126:
Board of Trustees of the Funeral Benefit Trust Fund

Abolish, with the function transferred back into the department.

Dispute Resolution Centres Council

This body is an advisory/consultative council to provide advice to the Minister on the operation of the *Dispute Resolution Centres Act 1990*, dispute resolution generally and the provision of mediation services under the Act.²¹³

²¹³ S73 Dispute Resolution Centres Council.

While there is a need for this function, it could be performed by the Dispute Resolution Branch within the Department of Justice and Attorney-General. The Council meets infrequently and the Department principally gathers and presents Council information. Consequential legislative amendments would be required to ensure the viability of the continued functioning of the Dispute Resolution Centres. Public participation can occur through appropriate departmental consultation.

The Dispute Resolution Centres Council submitted (S73) that on an application of the *Public Interest Map*, it should be abolished, and the functions transferred to the Department. The Department, and the Reviewers, agree.

RECOMMENDATION 127:
Dispute Resolution Centres Council

Abolish, with the function transferred back into the department, and consequential amendments required to the *Dispute Resolution Centres Act 1990*.

Legal Aid Board and Legal Aid Queensland

Legal Aid Queensland is an independent statutory body providing legal assistance, through the provision of legal information, advice and representation to disadvantaged members of the community in the areas of criminal, family and civil law.²¹⁴

Legal Aid Queensland (S50) provided a comprehensive public submission applying the Public Interest Case to the current body and justifying the continuation of its independent status and its current organisational form, including the five member governing board.

RECOMMENDATION 128:
Legal Aid Board and Legal Aid Queensland

Status quo.

Legal Practice Committee

This Committee is the lesser of two disciplinary bodies established under the *Legal Professions Act 2007*.²¹⁵ It deals with the less serious unsatisfactory professional conduct. The committee also may make recommendations to the Minister on the

²¹⁴ S50 Legal Aid Queensland.

²¹⁵ The other disciplinary body that deals with professional misconduct is the Legal Practice Tribunal, part of the Queensland Civil and Administrative Tribunal, and not in scope of this Review.

adequacy of the Legal Profession Rules (although it has not exercised those powers).²¹⁶

The need for this function to be performed independently of government and the profession satisfies the Threshold Test. The Reviewers accept that the Public Interest Case justifies this disciplinary body remaining separate from the investigatory function performed by the Legal Services Commission in accordance with the scheme established in the *Legal Professions Act 2007*.

RECOMMENDATION 129:
Legal Practice Committee

Status quo.

Legal Practitioners Admissions Board

This Board (eight volunteer members) considers applications for admission to the legal profession and makes recommendations to the Supreme Court. The need for independence makes the compelling Public Interest Case.

RECOMMENDATION 130:
Legal Practitioners Admissions Board

Status quo.

Legal Services Commission

The Legal Services Commission is the sole body authorised to receive complaints about lawyers in Queensland, or start a 'conduct investigation' of its own motion.

The *Legal Profession Act 2004* comprehensively reformed the regulation of the legal profession in Queensland including the system for dealing with complaints about lawyers. It took responsibility dealing with complaints away from their professional associations – the Queensland Law Society (which represents solicitors and had long-standing statutory powers) and the Bar Association of Queensland (which represent barristers but did not) – and gave it instead to the new and independent statutory office of Legal Services Commissioner supported by the Legal Services Commission.²¹⁷

The subsequent *Legal Profession Act 2007* consolidated and extended the earlier reforms.

²¹⁶ Department of Justice and Attorney-General – Audit response, September 2008, p. 1.

²¹⁷ Legal Services Commission Annual Report 2006-07 p. 10.

The need for this function to be performed independently of government and the profession satisfies the Threshold Test. The Reviewers accept that the Public Interest Case justifies the Commission's organisational form and consider that the two additional disciplinary bodies as part of the schema of the *Legal Professions Act 2007* should remain as separate disciplinary bodies.

RECOMMENDATION 131:
Legal Services Commission

Status quo.

Professional Standards Council

This body was established in 2007 as part of tort law reforms and it is consistent with an agreed national model. The main function is to assess applications made by occupational associations under the *Professional Standards Act 2004* for approval of a scheme to limit the occupational liability of the members of the association. The Council's mission is to promote consumer protection and excellence in professional standards.²¹⁸

RECOMMENDATION 132:
Professional Standards Council

Status quo.

Public Advocate

The laws relating to guardianship involve a number of bodies: the Public Trustee, and the Guardianship and Administrative Tribunal (to become part of the Queensland Civil and Administrative Tribunal) as well as the following under the *Guardianship and Administration Act 2000* -

- Adult Guardian (independent statutory officer to protect the rights and interests of adults with impaired capacity);
- Public Advocate (independent statutory officer for systemic advocacy); and
- Community visitors (to safeguard the interests of 'consumers' by regularly visiting 'visitable sites').

The Public Advocate role is for systems advocacy (not for individual persons) to promote and protect the rights and interests of adults with impaired decision-making capacity. Queensland is the only state that has this role²¹⁹. The role was said by the

²¹⁸ Department of Justice and Attorney-General – Audit response, September 2008, p. 2.

²¹⁹ Other states may use the term 'Public Advocate' – as part of the role of the Adult Guardian.

former Attorney-General to honour an election promise²²⁰ and followed detailed consideration by the Queensland Law Reform Commission on whether the function of systemic advocacy should be separated from the individual decision-making role of the Adult Guardian, concluding that the two roles should be separate (*Assisted and Substituted Decisions: Decision-making by and for people with a decision-making disability* (Report 49, June 1996)).²²¹

The Reviewers received a number of detailed public submissions. The Uniting Care Centre for Social Justice (S46), the Queensland Disability Housing Coalition (S63) and the Community Resource Unit (S26) all strongly recommended the Public Advocate's continuing contribution. The Queensland Law Reform Commission (S47 and S82) and the Public Advocate (S48) submitted that the Public Advocate role is a matter being considered by the Queensland Law Reform Commission in its current guardianship laws review (reporting date 31 December 2009) and review of the Public Advocate should be appropriately left for the Commission's review which is examining the broader guardianship system. The Department of Justice and Attorney-General contended that the Public Advocate position should be abolished with the systems advocacy function transferred to the Office of the Adult Guardian because, by being separated from the experiences of the Adult Guardian, the Public Advocate does not have sufficient access to information to amass a systemic assessment based on objective data and meet its original objectives.

In the context of the Threshold Test justifying why the Public Advocate needed to be separate from the Adult Guardian, the Public Advocate reiterated the reasons of the Queensland Law Reform Commission-

- Strong stakeholder support for a statutory office to conduct systems advocacy which was considered part of the scheme.
- The desirability of avoiding situations such as those arising in Ward 10B Townsville hospital and Basil Stafford Centre and the relevant embarrassment for government and the resulting inquiries.
- To minimise conflict of interest, the decision-making role should be separated from the advocacy role.
- To achieve focus and clarity of roles – to avoid loss of advocacy focus in a larger office.
- The issues arising from the work of the other guardianship entities should not drive the work of the Public Advocate at the expense of broader systemic issues for people with decision-making disability.²²²

The Reviewers consider that stakeholder support and a clear focus on objectives is important but *the ability to perform its critical role of systems advocacy is more important*. If by reason of its separate structure the Public Advocate has not been able to access data and experience the necessary body of evidence to enable it to undertake its role effectively, then government and stakeholder ambitions for the

²²⁰ Hansard, Second Reading Speech *Guardianship and Administration Bill 1999*, 8 December 1999 p. 6079.

²²¹ <http://www qlrc.qld.gov.au/publications.html#1>.

²²² S48 Public Advocate, pp.12-13.

role have been undersold by an organisational form ultimately that is not fit for purpose.

The Queensland Law Reform Commission is currently reviewing the Public Advocate, and the Adult Guardian, as part of its guardianship laws review. Unless the Queensland Law Reform Commission can establish a contrary finding in this fundamental respect, then the Public Advocate as a separate body should be abolished and its essential role transferred to the Adult Guardian.

RECOMMENDATION 133:
Public Advocate

Pending analysis of a different finding (in favour) of the structural capability of the Public Advocate to perform its essential role in the current guardianship laws review by the Queensland Law Reform Commission due by 31 December 2009, the Public Advocate should be abolished and its functions transferred to the Adult Guardian.

Public Trust Office Investment Board

The Board controls and manages the investments of the Public Trustee Common Fund and provides advice to the Public Trustee on the Public Trustee Investment Funds. The Public Trust Office is responsible for more than \$1.1 billion of funds under management. As at 30 June 2008, the volume of funds invested in the Public Trustee Investment Fund was \$498 million.²²³

The Public Trustee provides secretariat and administrative support to the Board. The Board provides a governance and accountability framework essential to the independence required and the public interest risks involved.

RECOMMENDATION 134:
Public Trust Office Investment Board

Status quo.

Queensland Law Reform Commission

The Commission is an independent statutory body. Its function is to review particular areas of the law referred to it by the Attorney-General and provide Reports making recommendations. The Reports must be tabled in Parliament.

²²³ The Public Trustee of Queensland Annual Report 2007-2008, p. 59.

The Queensland Law Reform Commission (S82) made a detailed public submission addressing itself to the Public Interest Case. The Reviewers agree that there is a compelling Public Interest Case for the Commission to remain independent of government so that recommendations for law reform can be made without fear or favour, and high calibre members can be attracted. The organisational form is appropriate and the existing naming of the body accords with the standing and the usual form for reform bodies of this kind.

RECOMMENDATION 135:
Queensland Law Reform Commission

Status quo.

Queensland Law Society (Council)

The Council has sole management of the Queensland Law Society Incorporated which is a representative and regulatory body of Legal Practitioners in Queensland. The Society administers the Legal Practitioner's Guarantee Fidelity Fund and the issue of annual practising certificates.

These functions should be performed independently of government.

RECOMMENDATION 136:
Queensland Law Society (Council)

Status quo.

Registrar General of Births, Deaths and Marriages

The registry functions as a business unit of the Department of Justice and Attorney-General. Appointment of a separate Registrar-General is appropriate in designating public confidence in the official keeper of public records although appointment by the Governor in Council is no longer necessary. Appointment under public service legislation suffices and accords with precedent in New South Wales and Victoria.

RECOMMENDATION 137:
Registrar General of Births, Deaths and Marriages

Status quo, including designated appointment of a Registrar-General except that the appointment authority should no longer be by the Governor in Council.

Supreme Court Library Committee

The Supreme Court of Queensland Library is the primary legal information provider for the Queensland judiciary and legal profession. The Committee is the statutory governing body responsible for management and control of the Library.²²⁴

The Reviewers understand that a merger of departmental library resources with the Supreme Court Library is proposed. Statutory provision for the governing committee preserves the Library's independence in right of the judiciary.

RECOMMENDATION 138:
Supreme Court Library Committee

Status quo.

7.2 Police

Controlled Operations Committee

The Committee's objective is to ensure that 'controlled operations' undertaken by the Queensland Police Service are necessary, efficient and appropriate by providing an independent recommendation to the Queensland Police Service and the Criminal Misconduct Commission on whether it is in the public interest to conduct a 'controlled operation'.

Under the *Police Powers and Responsibilities Act 2000*, the committee must include an independent member (who may be a retired Supreme or District Court judge).

The independent check provided on the proposed use of the relevant law enforcement powers substantiates the Public Interest Case for continuation of the separate body and form.

RECOMMENDATION 139:
Controlled Operations Committee

Status quo.

²²⁴ *Supreme Court Library Act 1968*, s.10.

Public Interest Monitor

Under the *Police Powers and Responsibilities Act 2000*, the Public Interest Monitor is an independent person who oversees the use by police of surveillance warrants and covert search warrants. The Public Interest Monitor is to ensure that the rights of the public are upheld – in the public interest.

RECOMMENDATION 140:
Public Interest Monitor

Status quo.

7.3 Corrective Services

Queensland Parole Board
Central and Northern Queensland Regional Parole Board
Southern Queensland Regional Parole Board

A 2005 review reduced seven community corrections boards to three parole boards. The Queensland Parole Board is the peak decision-maker for prisoners serving over eight years, and the regional boards for those serving between 3 and 8 years. The President is the same for all three boards.

This activity needs to be undertaken independent of the Government of the day. All other Australian jurisdictions have a similar system.

By exception, the Reviewers consider that the history and public identification of the use of the term 'Board' (to the parole function) is important in conveying the independence of the decision-makers from government.

RECOMMENDATION 141:
Queensland Parole Board
Central and Northern Queensland Regional Parole Board
Southern Queensland Regional Parole Board

Status quo.

7.4 Licensing

Consumer Safety Committee

The Committee is a statutory authority under the *Fair Trading Act 1989* to advise the Minister responsible for Fair Trading or the Commissioner for Fair Trading on the safety of consumer products and services, in particular by recommending safety investigations to determine whether supply should be prohibited, restricted or made conditional.

After a period of inactivity, the committee was reconstituted in May 2008 following an increasing number of issues arising in the marketplace in relation to unsafe toys. Under the *Fair Trading Act 1989*, the Government is unable to introduce interim prohibition orders for *immediate* removal from the market of unsafe product without the committee first recommending that course.

The committee is not remunerated and currently consists of eight members.

The Department of Justice and Attorney-General advised that the Council of Australian Governments current reform agenda includes a proposal for a national scheme and legislation by 2010. The committee would be wound up on the commencement of the national legislation.

RECOMMENDATION 142: **Consumer Safety Committee**

Status quo, pending a national scheme and legislation by 2010 and consequent abolition of the Committee.

Prostitution Licensing Authority

The Prostitution Licensing Authority is responsible for the administration of the *Prostitution Act 1999* and the regulation of prostitution in Queensland. The body's primary function is to decide on applications for brothel licences and approved manager certificates.²²⁵

The Reviewers received two focused and comprehensive public submissions (C19 and S5) from this body to assist them greatly in their considerations. The Reviewers agree that the Threshold Test is satisfied and the Public Interest Case is well made for the body's independence from a department and its capacity for cross-portfolio reach of issues.

²²⁵ C19 Prostitution Licensing Authority.

The statutory body form with an independent governing board is essential to meet the priority (functional and environmental) objectives for independence, good judgement, and probity. High standards of governance are in place to frame the Prostitution Licensing Authority's operations and its achievement of outcomes, as evidenced for example by the positive Crime Misconduct Commission Report in 2004.²²⁶

RECOMMENDATION 143:
Prostitution Licensing Authority

Status quo.

²²⁶ S5 Prostitution Licensing Authority cites: Crime and Misconduct Commission (2004), *Regulating Prostitution: An Evaluation of the Prostitution Act 1999*.

8. Social

The Social sector accounted for the largest number of government bodies under the Review with 39.5% of the total (181 of 459).

A recurring theme in this sector in particular was whether the Public Interest Case called for a consolidation of like bodies into one entity or not. The public interest determines the recommendations on the merits of each case.

In respect of the Arts/Culture bodies, the Reviewers considered the option of amalgamating the various non-departmental government bodies into a unified arts commission (statutory authority). That model claims savings in back office costs, economies of scale and advantages in coordinating various activities and engagements for cross-leveraging purposes.

The Reviewers were not persuaded of the benefits of this model. Indeed, the model in this case has real potential to create excess bureaucracy and red tape instead of its reduction.

Such a supersized, necessarily more generalist entity could pose the following public interest risks-

- too much cultural power and influence in too few hands (potentially compromising plurality of creative input, the diversity of cultural and artistic outcomes, the availability of wide and different networks, and limits the source of creative and business ideas at the governing level);
- reduced budget savings from the model as re-creation of a middle governance structure across the specialised endeavours (e.g. library, gallery, facilities management, education and training) would be likely;
- internal distraction and strategies to maximise aligned board representation, budget and profile by the various components where budget and profile decisions are centralised and determined by a board not necessarily all expert in all relevant fields of endeavour; and
- potentially significant challenges in aligning cultural values and a shared single vision of business priorities.

As the Part A Report notes, 'novel administrative arrangements require careful consideration of the new risks they create as well as their putative benefits'.²²⁷ These risks factor into the Public Interest Case recommended before creating new bodies.

The Reviewers consider, in this case, that the unified structural model would be a 'wrong fit' for that public endeavour. The desired advantages of the single model should be arrived at not by superimposing a *structure* to create a performance

²²⁷ Part A Report, p. 19.

template but through application of local expertise, innovation and *strategy* designed to specified performance *objectives*.

As it happens, the Queensland Museum, the Queensland Art Gallery, Queensland Performing Arts Centre, Queensland Theatre Company and the State Library of Queensland have themselves organised to meet as a group of Cultural Statutory Authorities-

The Chairs of the Boards of the Cultural Statutory Authorities have been holding regular meetings to explore ways to better coordinate our programs particularly at South Bank in Brisbane.

This cooperation has already resulted in joint marketing projects such as the Summer Program 2007-08 and complementary activities supporting the Queensland Performing Arts Centre's Out of the Box Festival in 2008.

I have no doubt that this era of cooperation between the Cultural Statutory Authorities will continue into the future and that it will enhance all our institutions.²²⁸

The Reviewers commend this strategy as a preferred course than an overarching structural addition to their activities. The Reviewers have recommended similarly in respect of the Queensland Health Community Councils (pp. 183-187) in favour of local solutions tailored to achieve performance objectives.

Of course there are many instances when a structural solution is more appropriate and more effective (e.g. common portals for registration and licensing, or complaints (pp. 133, 180-181, 189-192)).

Where there are a number of functionally similar, or content-aligned, bodies there are a range of legitimate but different options to achieve good government outcomes better than the sum of the individual parts.

More than a case by case consideration is needed. Transparent and guided application of the public interest under the *Public Interest Map* brokers the necessary balance in outcomes.

8.1 Arts/Culture

Art and Place Curatorial Panel

The Panel is the peak advisory body on public art distinguished by expert and high reputation members from Queensland's art and design community. The Panel was established for three years to assess applications to the \$12m public art fund, *art+place*. (Such a curatorial panel was recommended in the 2005-06 evaluation of

²²⁸ Jones, A., Chair, Board of the Queensland Museum, *Queensland Museum Annual Report 2007-08*, p. 9.

the *Art Built-in* program by Professor Michael Keniger, the former Queensland Government architect.)

Stakeholder consultation raised queries whether the Panel was duplicating departmental function as the Department had undertaken those activities previously.

Arts Queensland (S92) contended that the Threshold Test was met for this separate body as the department, and its statutory bodies, could not represent the range of disciplines required (organisational capability) and the Panel provided the necessary objectivity and independence from direct Ministerial influence in assessing funding applications for public art (independence).

The function of the art+place program is to improve the quality and liveability of the State's public spaces. Internationally, this is a separate, recognised field of art practice, calling upon disciplines of urban design and planning, built and landscape architecture and a range of art-form disciplines, including visual arts and new media. The full range of these disciplines needs to be available to ensure high quality outcomes from the public investment in this program. This expertise is not represented in either the Department, or in the arts statutory bodies, but is brought together in the panel.

The panel makes decisions on (i.e. selects) public art submissions. It is an industry expectation, and Arts Queensland's firm view, that these decisions need to be made at arm's length from the Department, and from direct Ministerial influence...

Even if the decision-making were transferred to Queensland Art Gallery, for example, they would simply have to replicate the expertise on the panel to enable them to do work which would be respectable nationally and internationally.²²⁹

The Panel costs less than \$5,000 per annum, including remuneration for three of the five members. Arts Queensland provides secretariat support to the Panel.

The Panel was originally established for three years to advise on the \$12m fund. The Panel should sunset in 2010 in accordance with that original brief. Should there be additional funding or a new/follow-on program thereafter, then an evaluation of this Panel experience would inform the Public Interest Case to be made in justifying the creation of a new body.

RECOMMENDATION 144:
Art and Place Curatorial Panel

The Panel should sunset in November 2010, in accordance with its original terms.

²²⁹ S92 Department of Education, Training and the Arts.

Board of the Queensland Museum

Under the *Queensland Museum Act 1970*,²³⁰ the Board is responsible for the control, management, maintenance and administration of the Queensland museum (includes a statewide network), its collections, and property. The Board is to pursue achievement of its strategic and operational plans and ensure its functions are performed in a proper, efficient and effective way. The Board accounts to the Minister for its performance.

There is a compelling need for these functions to be undertaken by an independent, specialised, governing board. The governance and accountability framework and practices appear to a high standard.²³¹

RECOMMENDATION 145: Board of the Queensland Museum

Status quo.

Library Board of Queensland

Under the *Libraries Act 1988*,²³² the functions of the Board include promoting the advancement and effective operation, use and coordination of all public libraries throughout Queensland and the control, management and maintenance of the State Library. The State Library's role is to 'ensure that Queensland's documentary heritage is collected, preserved and made accessible to the public'.²³³

It is also a major research centre and an advocate and financial partner of Queensland's public library network (of around 330+ libraries) and Indigenous Knowledge Centres (17 as at January 2009).²³⁴

The Board is to pursue achievement of its strategic and operational plans and ensure its functions are performed in a proper, efficient and effective way. The Board accounts to the Minister for its performance.

The Board (S37) submitted-

... the independence necessary to meet its obligations to intellectual freedom principles under these charters [including two from the United Nations] and to conduct its business accordingly, satisfies Threshold Criteria 2: Independence.²³⁵

²³⁰ *Queensland Museum Act 1970*, ss. 7, 12.

²³¹ See also S81 Queensland Museum, and Queensland Museum, *Annual Report 2007-08*.

²³² *Libraries Act 1988*, s.20.

²³³ Library Board of Queensland, *Annual Report 2007-08*, p. 3.

²³⁴ S37 Library Board of Queensland.

²³⁵ S37 Library Board of Queensland, p. 3.

The Reviewers agree.

The Board also cited the following reasons in justification of the current organisational form-

The Board structurally enforces the necessary independence of the State Library's business as protectors and facilitators of the basic right of all people to freedom of information and freedom from censorship;

The functions and powers described in the Board's enabling legislation are sufficiently significant to warrant the Board form and are too significant to vest in any single office holder;

The Board enables local, flexible, responsive and efficient decision-making; and

The *Libraries Act 1988* and other legislation to which the State Library is subject, comprehensively ensures accountability and transparency.

The Reviewers agree.

The governance and accountability framework and practices appear to a high standard.²³⁶

RECOMMENDATION 146:
Library Board of Queensland

Status quo.

Major Brisbane Festivals Pty Ltd

In late 2008, the Brisbane Festival and the River *festival* were merged and became the new annual Brisbane Festival under the direction of the Major Brisbane Festivals Pty Ltd. The first combined month long festival will be held in September/October this year. Both the State Government and the Brisbane City Council fund the event with overall funding to \$5.29m a year.

The Threshold Test is satisfied (organisational capability and independence). Stakeholder representation and community activity also support the need for autonomy from a government department.

A post-event review of organisational form, governance and accountability arrangements should occur following its first year of operation to ensure fit for

²³⁶ See also S37 Library Board of Queensland; and Library Board of Queensland, *Annual Report 2007-08*.

purpose and for managing public interest risks (including accountability, economy, efficiency, effectiveness, relevance).

RECOMMENDATION 147:
Major Brisbane Festivals Pty Ltd

Status quo.

A post-event review of organisational form, governance and accountability arrangements should occur following its first year of operation to ensure fit for purpose and for managing public interest risks (including accountability, economy, efficiency, effectiveness, relevance).

Pacific Film and Television Commission

The Commission was established as a company limited by shares in 2003. The Minister for the Arts is the sole shareholder. The company's objects are to increase the level of film and television industry in Queensland; develop a creative infrastructure for the industry; support a vibrant screen culture; and fund members of both the domestic and foreign film industries.²³⁷

The Reviewers can appreciate a call for independent experts to pursue these objectives in reaching beyond the organisational capability and networks of a government department. But the Reviewers are not aware of any reason to justify the need for the form to be a company.

A Public Interest Case consideration, of the public interest risks in particular, suggests a statutory body would be a more suitable form and well able to serve the operational needs of, essentially, a promotional, industry support, and funding allocation body. This is so, notwithstanding the competitive Australian and international marketplace in which the body operates. In changing the form from a company, to a statutory body, governance arrangements should be reviewed to ensure alignment with the responsible Minister's expectations and an appropriate incorporation of public sector probity and economy (in the usual course) as balanced with the operational needs of the body's objects.

RECOMMENDATION 148:
Pacific Film and Television Commission

The organisational form should be a statutory body, instead of a company. Public sector governance arrangements for the body should be reviewed in line with the recommendations of the Good Governance Framework.

²³⁷ S86 Arts Queensland.

Q150 Celebrations Advisory Committee

This advisory body was established to provide advice to the Premier in respect of celebrations of the 150th anniversary of Queensland this year. Expenditure comprises predominantly the remuneration of the Executive Chair plus reimbursement of reasonable expenses incurred in that role.

The Committee sunsets at the end of the 2009 celebrations program.

RECOMMENDATION 149:
Q150 Celebrations Advisory Committee

Status quo, with the Committee sunsetting as at 31 December 2009.

Queensland Art Gallery Board of Trustees

Under the *Queensland Art Gallery Act 1987*²³⁸, the functions of the Board include to control, manage and maintain the Queensland Art Gallery, its collections, and property; to minister to the needs of the community in any or all branches of the visual arts, and to encourage artistic achievement by artists resident in Queensland. The Board is to pursue achievement of its strategic and operational plans and ensure its functions are performed in a proper, efficient and effective way. The Board accounts to the Minister for its performance.

There is a compelling need for these functions to be undertaken by an independent, specialised, governing board. The governance and accountability framework and practices appear to a high standard.²³⁹

RECOMMENDATION 150:
Queensland Art Gallery Board of Trustees

Status quo.

Queensland Music Festival Pty Ltd

The Queensland Music Festival brings together several thousand Australian and international musicians to present a diverse program of jazz, opera, musical theatre, classical and contemporary performances to Brisbane and Queensland's regional communities.

²³⁸ *Queensland Art Gallery Act 1987*, ss. 7, 19.

²³⁹ See also S81 Queensland Museum and Queensland Art Gallery 2007-08 Annual Report.

The Threshold Test is satisfied (organisational capability and independence). Stakeholder representation and community activity also support the need for autonomy from a government department. In the absence of a contrary more detailed enquiry or review than the present permits, limited liability company form governed by an independent board to deliver a large commercially successful event program is appropriate provided governance arrangements ensure rigour and accountability in the use of public and sponsorship monies.

RECOMMENDATION 151:
Queensland Music Festival Pty Ltd

Status quo.

Queensland Performing Arts Trust (QPAT) and Director

Under the *Queensland Performing Arts Trust Act 1977*,²⁴⁰ QPAT's functions include-

- management of the Queensland Performing Arts Centre, Queensland's performing arts venue, to support the production and presentation of the performing arts in that venue (including works produced and presented by QPAT and works presented by external hirers);
- delivery of a wide-ranging education and research program in the performing arts;
- increasing public engagement with, and participation in, the performing arts; and
- supporting artist and artform development in the performing arts disciplines.

QPAT (S84) also submitted-

... it is appropriate for the Queensland Government to own and operate the premier performing arts venue in the state. Governments world-wide are recognising the value of having a vibrant high quality cultural precinct, for the benefit of their citizens, to attract and retain a skilled creative workforce and to attract tourism. The equivalent centres in Sydney, Melbourne and Adelaide are all statutory authorities of the relevant State Government.²⁴¹

QPAT's public submission (S84) also made a Public Interest Case (organisational capability and independence) for its continuation (in current form); supported the introduction of a five-yearly review process; and welcomed 'government initiatives to clarify governance structures for Queensland's government bodies and ensure best practice governance in this sector'.²⁴²

²⁴⁰ *Queensland Performing Arts Trust Act 1977*, ss. 7, 12; S84 Queensland Performing Arts Trust.

²⁴¹ S84 Queensland Performing Arts Trust, p. 2.

²⁴² S84 Queensland Performing Arts Trust, p. 3.

RECOMMENDATION 152:
Queensland Performing Arts Trust (QPAT) and Director

Status quo.

Queensland Theatre Company

The *Queensland Theatre Company Act 1970* provides a statutory requirement for the promotion, development, and presentation of, participation, knowledge, and education in, drama and other arts of the theatre in Queensland. In doing so, it creates a statutory body – the Queensland Theatre Company - to pursue those objects.

Similar legislative artistic priority is accorded the visual arts backed by the creation of a statutory body (Queensland Art Gallery).

The Reviewers had before them a *Public Interest Map* submission by the Queensland Theatre Company (S74) for its continuation of form, as well as the Department's contention that the Queensland Theatre Company no longer needed to be a statutory body or other government body form, like the Queensland Ballet or the Queensland Orchestra.

The Reviewers applied the *Public Interest Map* and were persuaded by the reasons provided in the Queensland Theatre Company's public submission (S74).

In contest for this body was the second question of the Threshold Test – should the Queensland Government undertake the proposed activity? (Should it be privatised/non-government organisation?)

The Reviewers considered-

- Currently, drama and other arts of the theatre are a cultural and artistic priority of the Queensland Parliament;²⁴³
- If the chief agent to deliver this priority was a non-government organisation (in the absence of a State Theatre), the public interest risks are-
 - Accountability*
 - the entity is still likely to require government funding to some, if not the same, extent but its governance and accountability would not be framed by public sector standards and frameworks as it is now, such as the financial governance legislation²⁴⁴ (and the recommended Government Bodies Act);

²⁴³ *Queensland Theatre Company Act 1970.*

²⁴⁴ *Financial Administration and Audit Act 1977 and the Statutory Bodies Financial Arrangements Act 1982.*

- a reduction of programs and activities that provide public value such as the education priorities under the *Queensland Theatre Company Act 1970*: 'An alternative structure would not provide the same certainty in providing these programs as an Act of Parliament, making them more vulnerable to being reduced or negotiated out of a funding agreement';²⁴⁵

Economy

- abolishing an existing 'lean' organisation (less than 1% of total expenditure is spent on compliance and government requirements currently);
- losing operational budget savings (currently available through accessing government buying rates and relationships with government agencies (e.g. Department of Public Works as landlord, Corporate Administration Agency as IT supplier));
- uncertainty as to organisation's ongoing revenue, with consequent impact on resources and continuity of programs;
- additional expenditure imposed in changing structures, potential loss of income from burden of managing change and possible loss of standing in the market from sponsors' perspectives and other grant providers;

Efficiency

- loss of corporate knowledge and expertise in managing key risk areas such as box office income;
- reduced access to government networks providing cross-leveraging opportunities for programming and business, such as the meetings of Cultural Statutory Authorities Chairs;

Effectiveness

- loss of statutory authority status advantage in attracting high quality board members;
- loss of current significant national profile; and
- alignment of performance measures with State Government priorities.

The Reviewers were persuaded that these public interest risks would not further the objective of reducing excess bureaucracy and red tape, nor could it be seen how such a change would produce savings.

The Public Interest Case was made with compelling reasons (organisational capability, independence, risk) for the Queensland Theatre Company to continue as a non-departmental body, in statutory body form, with an independent governing board. The use of 'company' in the context of this name is acceptable (see pp. 30-31) as it has long history and identity of application for ensembles of actors, producers, and directors.

²⁴⁵ S74 Queensland Theatre Company.

RECOMMENDATION 153:
Queensland Theatre Company

Status quo.

8.2 Communities

Anzac Day Trust

The *Anzac Day Act 1995* established this body to administer the Anzac Day Trust Fund, including determinative powers on the allocation of funds. The Anzac Day Trust must consider applications made to the trust for payments out of the fund by organisations that offer financial assistance and relief to ex-servicemen and women and their dependants. The Anzac Day Trust is also responsible for the annual Anzac Day celebrations.

The four member Board of Trustees is necessarily arms-length from government departments, peer-nominated and appropriate for its specialised functions.

RECOMMENDATION 154:
Anzac Day Trust

Status quo.

ATSI Appeals Tribunal (Land Holdings)

This Tribunal only exists in nominal form following the commencement of the *Aboriginal and Torres Strait Islander Land Act 1991*. The Department advised that the functions of this body can be transferred to the Land Tribunal.

RECOMMENDATION 155:
ATSI Appeals Tribunal (Land Holdings)

Abolish, and functions should be transferred to the Land Tribunal with consequential legislative amendments.

Australian South Sea Islander Community Foundation Board of Advice

The Australian South Sea Islander Community Foundation is a partnership between the Queensland Government and the corporate sector to create a permanent legacy to provide university scholarships for Australian South Sea Islanders tertiary students. The independent Board is required to provide advice on the administration of the Foundation and makes recommendations regarding the allocation of scholarships.

The Deed of Trust is within the function of the Public Trustee.

RECOMMENDATION 156:

Australian South Sea Islander Community Foundation Board of Advice

Status quo.

Child Death Case Review Committee

This Committee reviews child deaths known to the Queensland child protection system. The Committee seeks to increase individual, departmental and systemic accountability in the child protection system and enhance the quality and consistency of services provided to children.

The Committee needs to be independent, and to reach across portfolios. It is chaired by the Commissioner for Children and Young People and Child Guardian.

A recent review provided recommendations to improve efficiency and effectiveness of the child death review process. Those recommendations were accepted and are being implemented currently. Another internal review will be undertaken in 18 months to assess the effectiveness of the recommendations.

RECOMMENDATION 157:

Child Death Case Review Committee

Status quo

Complaints Management Quality Committee

This review body was established in 2001 to provide independent advice to the Minister for Disability Services Queensland on the quality, efficiency and effectiveness of the Department's Complaints Management System. Providing such advice cannot be done within the Department as it would pose a significant conflict of interest, and could detract from the public's perception of the Department's commitment to a transparent, robust and responsive complaints management system.

The Complaints Management Quality Committee receives reports from the Department's centralised complaints unit. These reports pertain to all complaints made regarding Disability Services Queensland's operated and funded services.

The Committee undertakes independent reviews of sample cases and advises the Minister on-

- (a) systemic issues and trends in complaints and recommend priority areas for attention;
- (b) the implementation of the Complaints Management System;
- (c) specific service delivery uses that are identified through the review process; and
- (d) the extent to which complaints management is contributing to continuous improvement and adoption of new strategies.

In December 2005, the Queensland Ombudsman highlighted this Committee as an efficient and effective management review committee.

In 2006, noting the significant improvements to the complaints management system that had been identified by the Committee, the Minister revised the Committee's Terms of Reference.

RECOMMENDATION 158:
Complaints Management Quality Committee

Status quo.

Disability Council of Queensland and Regional Disability Councils (x 10)

Regional Disability Councils, through the Disability Council of Queensland, provide advice to the Minister on issues impacting on people with a disability and their families at a local and regional level. Their terms of reference sunset on 1 December 2010.

In addition to the ten regional disability councils, the Department has seven regional Local Area Coordination Units that undertake regional consultation on issues relating to the portfolio's functions. The Threshold Test is not met to justify why these ten regional bodies are required in addition to the seven regional consultation mechanisms separately in place for the Department, and the overarching State Council advising the Minister.

Regional councils cost \$120,000 in board fees per year. Ministerial advisory committees should not receive remuneration.

RECOMMENDATION 159:
Disability Council of Queensland

Status quo, except the advisory body should not be remunerated.

Darling Downs/South West Queensland Regional Disability Council
Far North Queensland Regional Disability Council
Fitzroy/Central West Queensland Regional Disability Council
Gold Coast Regional Disability Council
Greater Brisbane Regional Disability Council
Mackay/Whitsunday Regional Disability Council
Moreton Regional Disability Council
North Queensland Regional Disability Council
Sunshine Coast Regional Disability Council
Wide Bay/Burnett Regional Disability Council

Abolish.

Duke of Edinburgh's Award Committee

The Queensland Government is the State licence holder for the operations of the Award in Queensland. The (voluntary) Committee provides strategic and operational advice to the Minister regarding the operations of the Awards in Queensland. This function should not be performed by the Department. In 2006, the governance procedures relating to the appointment of Committee members were reviewed and changes made to ensure constant representation and replenishment.

Fees collected for participation in the program are utilised to offset costs.

RECOMMENDATION 160:
Duke of Edinburgh's Award Committee

Status quo.

Family Responsibilities Commission and Board

This is a joint undertaking by the State and Commonwealth Governments. It is a major component of the Cape York Welfare Reforms

The body already has a sunset clause of 1 January 2012, with rigorous and regular independent evaluation as part of the program.

RECOMMENDATION 161:
Family Responsibilities Commission and Board

Status quo.

Forde Foundation Board of Advice

In 2000, the Foundation was established as a public, perpetual, charitable trust (government, public and church monies totalling \$4.15m to assist victims of institutional abuse through ex gratia payments and support services. Twice a year, the Forde Foundation calls for applications and the Board of Advice makes recommendations to the Public Trustee who is the decision-maker.²⁴⁶

Since 2000, the number of applications have increased and the cost of the individual claims sought is higher as the 'former residents' age and their needs increase. In 2007, the Government implemented a Redress Scheme with \$100m government money to be allocated through 'one off ex-gratia payments' within a 12 month period on recommendation of a separate panel of experts.

The Forde Foundation Board of Advice and secretariat deals with former residents in performing its role and as part of the Forde Inquiry's 'one stop shop' concept for support to the victims of institutional abuse, the Board is co-located with the counselling service provider and other on-the-ground resources.

The Board provides a necessary independent of government (and informed) advisory role on the applications made to the Forde Foundation. It does not duplicate the function of the Redress Committee which has an advisory role in respect of a different fund and for a different fund purpose, albeit for many of the same people as those applying to the Forde Foundation.

It is not for this Review to suggest solutions to the challenges arising from the number and size of applications presenting to the Forde Foundation, but the governance framework is relevant to the Review's brief to reduce bureaucracy and red tape.

As the Forde Foundation is established by a Deed of Trust, reports to government on its operation are not required. Under the terms of the Deed of Trust, the Public Trustee is required to provide the Board with a yearly budget statement detailing income and expenditure. It is the Board's decision as to whether this information is provided to the government or stakeholders.²⁴⁷

As part of the governance framework, the Forde Foundation Board of Advice should not only advise on individual grant applications but it should also have a role in

²⁴⁶ S28 Public Trustee.

²⁴⁷ Department of Communities – Audit Return, September 2008.

advising the responsible Minister on strategic areas of continuing need, administration and future directions for the Foundation.

RECOMMENDATION 162:
Forde Foundation Board of Advice

Status quo. The role of the Board of Advice should extend to advising the responsible Minister on strategic areas of continuing need, administration, and future directions for the Foundation.

Indigenous Advisory Council

This Council was established in October 2008 in response to the Federal *Closing the Gap* program. All States have an Indigenous Advisory Council. Its objectives satisfy the Threshold Test and its form is appropriate.

RECOMMENDATION 163:
Indigenous Advisory Council

Status quo.

Indigenous Queenslanders Foundation Board of Advisors

The Indigenous Queenslanders Foundation is a public foundation established to serve Aboriginal and Torres Strait Islander Queenslanders by providing a secure and independent funding source for bursaries and scholarships. The Board recommends allocation and prioritisation of Foundation funds to the Public Trustee.

The independent Board is to comprise of five to seven members including Aboriginal, Torres Strait Islander and non-Indigenous people who are leaders in the fields of youth, government, philanthropy, community affairs, education and finance. The Board is to have a majority of Indigenous members.²⁴⁸

The Deed of Trust is within the function of the Public Trustee.

RECOMMENDATION 164:
Indigenous Queenslanders Foundation Board of Advisors

Status quo.

²⁴⁸ Department of Communities – Audit Response, September 2008.

Island Industries Board

The Reviewers considered a comprehensive public submission (S42) from the chief executive officer, Island Industries Board (IIB), which applied the *Public Interest Map* to the Board and made the Public Interest Case in favour of its continuation in current form and with an independent governing board.

Operating as a not for profit entity, registered as a Public Benevolent Institution with the Australian Tax Office and as a Queensland Government Statutory Body provides the IIB with advantages that allow the IIB to provide its services to these remote communities at significantly lower cost than commercial operators.²⁴⁹

Departmental consultations agreed that the IIB should continue in its current form and operations.

The Island Industries Board is self-funded including for future asset replacement, and is essential in providing the Torres Strait and the Northern Peninsula Area, Cape York with safe, nutritious food at the lowest possible price.

RECOMMENDATION 165: **Island Industries Board**

Status quo.

Level 2 Redress Panel

In 2007, the Government implemented a Redress Scheme with \$100m government money to be allocated through 'one off ex-gratia payments' within a 12 month period, on recommendation of an independent panel of experts.

The Panel should sunset upon finalisation of round 2 payments.

RECOMMENDATION 166: **Level 2 Redress Panel**

Status quo, with the Panel sunsetting upon finalisation of round 2 payments.

²⁴⁹ S42 Island Industries Board.

Ministerial Advisory Council on Domestic and Family Violence

The Department regards this Council as having a significant role in informing policy (essential public participation and consultation criterion). Successive Ministers are said to have relied on it for advice. The Council is regarded as a very active body that uses its engagement effectively with the Minister who attends the meetings.

The Council's annual budget is \$55,000 for sitting fees, travel, catering, accommodation.²⁵⁰ Members of Ministerial advisory bodies should not be remunerated (see 3.3.1 Committees and Councils, pp. 38-39).

RECOMMENDATION 167:

Ministerial Advisory Council on Domestic and Family Violence

Status quo, except membership of advisory bodies should not be remunerated.

Ministerial Regional Community Forums (x 10)

The Regional Community Forum initiative was the forerunner to Community Cabinets in 1999.

Departmental consultations indicated-

- the reporting framework was extensive and time consuming;
- the process had been superseded or duplicated by other community consultation mechanisms such as the Community Cabinets;
- departments have more effective (outcomes, time and cost) consultation mechanisms available; and
- a frustration with a process that 'should have sunsetted' where some public sector employees-
 - would raise concerns at the forums in their capacity as members and then they were the same persons preparing the regional response to send back to Head Office for formal reply into the Forum process; or
 - had held their positions on the forums for ten years creating a cynicism of the representative or consultative value of the exercise in some cases.

There are approximately 40 Forums conducted a year (4 x 10) at a cost of approximately \$35,000 per Forum meeting (approximate annual cost for 40 Forum at \$1.5m).²⁵¹ The Regional Community Forum process is supported by a dedicated departmental unit of 18 staff, plus the contributions made by all departments in the course of Forum process and reporting.

²⁵⁰ Department of Communities – Audit Response, September 2008.

²⁵¹ Department of Local Government, Sport and Recreation– Audit Return, September 2008.

One public submission (S29) was received to contend that despite the cost, the Forums were valuable-

... they provide a direct face to face contact with government in a mutually benefit environment that is non threatening and engaging. The open discussion and dialogue also allows government to explain some of its decisions made and intended implementation activities.

The full cost of providing these events is unknown to me but as a community member who does not get paid to undertake this task the main cost is in government costs which is valued would far out way the cost as the community also contributes through its own costs.

...

Advice is cheap but I have found that the government through this process has paid more than just lip service to the concerns raised. For this they should be commended.

The Reviewers agree that quality community engagement is an essential function but the Threshold Test was not satisfied because this particular process was not 'essential and superior as tested against contemporary alternatives'.

RECOMMENDATION 168:

Central Queensland Ministerial Regional Community Forum
Darling Downs/Southwest Queensland Ministerial Regional Community Forum
Far North Queensland Ministerial Regional Community Forum
Gold Coast Ministerial Regional Community Forum
Greater Brisbane Ministerial Regional Community Forum
Mackay/Whitsunday Ministerial Regional Community Forum
Moreton Ministerial Regional Community Forum
North Queensland Ministerial Regional Community Forum
Sunshine Coast Ministerial Regional Community Forum
Wide Bay/Burnett Ministerial Regional Community Forum

Abolish.

Multicultural Community Ministerial Advisory Committee

This Ministerial Advisory Committee was established in 2007 to provide the Minister with high level advice and feedback on the needs of Queenslanders from culturally and linguistically diverse backgrounds, emerging issues, strategies, and implementation of the multicultural policy. This Committee is the peak advisory body for multicultural policy.

RECOMMENDATION 169:
Multicultural Community Ministerial Advisory Committee

Status quo.

Mt Gravatt Showgrounds Trust

The relevant portfolio department advised the Reviewers that it had no involvement with this body and as such available information was limited to the enabling legislative provisions.

Under the *Mt Gravatt Showgrounds Trust Act 1988*, the Trust is a statutory body that is to implement a strategic plan for the development and use of the showgrounds for showgrounds, park and recreation purposes.

The Mt Gravatt showgrounds had previously been held by the Brisbane City Council which, between 1938 and 1974, applied various uses to the land.

In the absence of any further information, the Reviewers were unaware of any compelling reason why this function could not be performed by the local government as it is for other showgrounds in the State.

RECOMMENDATION 170:
Mt Gravatt Showgrounds Trust

In consultation with the Brisbane City Council and the Mt Gravatt Showgrounds Trust, the Queensland Government should examine whether the functions of the Mt Gravatt Showgrounds Trust (and property) should be transferred to the Brisbane City Council.

Palm Island Community Company

The key objectives of the Palm Island Community Company are to-

- provide services and improve the financial management and administration of non government organisations on Palm Island;
- improve the number and quality of human services delivered on Palm Island; and
- provide business advice and mentoring to the Palm Island community.²⁵²

There are compelling reasons for the creation of this body outside a department.

²⁵² Department of Communities – Audit Response, September 2008 .

The newly established body is a company limited by shares under the *Corporations Act 2001*. The Queensland Government and the Palm Island Aboriginal Shire Council are Ordinary Shareholders in the company. Community Shareholders will be organisations or individuals representing the traditional owners, family groups, community organisations and Indigenous organisations.

The Palm Island Community Company is to be run as a pilot program. The Department advised the Reviewers that a 'full review of the company's operations is earmarked for 12-18 months'.²⁵³

RECOMMENDATION 171:
Palm Island Community Company

Status quo. The planned post-start up review within 18 months is supported.

Public Records Review Committee

The *Public Records Act 2002* provides for the independence of the State Archivist in making decisions on disposal of records. This Committee provides a necessarily independent avenue of review for public authorities under the Act.

RECOMMENDATION 172:
Public Records Review Committee

Status quo.

Queensland Compact Joint Governance Committee

In November 2007, the Government approved the development of a Compact between the non-government sector and the Qld Government to improve the planning and delivery of human services in Queensland.

To date, there are no members to the Committee. Only the Chair has been nominated. It is intended that there will be approximately ten members with equal numbers for community services, non-government representatives and government agency representatives. As an advisory body, membership should not be remunerated.

The Committee will provide a forum for raising issues of strategic importance to the delivery of effective human services; overseeing the implementation of an action plan; promoting awareness of the Compact across both sectors; and promoting

²⁵³ Department of Communities – Audit Response, September 2008.

consultation, engagement and collaboration opportunities to advance the goals of the Compact.

The Reviewers are not persuaded that a need for the creation of this separate advisory body has been demonstrated given the time delays and that joint oversight of performance in pursuance of a Compact can be achieved in alternative ways than establishing an (originally remunerated) advisory committee.

RECOMMENDATION 173:
Queensland Compact Joint Governance Committee

Abolish.

Queensland Seniors Council

The Seniors Council was formed to provide a forum for the exchange of information and views between seniors and the Queensland Government to assist the development of policies, programs and services that impact on the lives of older people. The Council also provides a forum for seniors in rural and regional communities. Ten of the 14 members are selected from each of the Department's regions.

This body is the peak advisory body on the needs of older people.

RECOMMENDATION 174:
Queensland Seniors Council

Status quo.

Queensland Youth Council

The Youth Council was formed to provide a forum for the exchange of information and views between young people and the Queensland Government to assist the development of policies, programs and services that impact on the lives of Queensland's young people. The body has 20 young members, selected from a range of regions, backgrounds and life experiences.

Unlike other youth consultation activities, this Council is constituted for a full year, rather than being a one-off event.

RECOMMENDATION 175:
Queensland Youth Council

Status quo.

Royal National Agricultural and Industrial Association (RNA)

The RNA manages the RNA Showgrounds and staging of the annual Brisbane Ekka provides 'a unique opportunity for country and urban residents to come together in a celebration of Queensland lifestyle'.²⁵⁴ This is a large undertaking and appropriately requires an independent and dedicated body to perform the functions.

The RNA is a statutory body under the *Royal National Agricultural Industrial Association of Queensland Act 1971*.

RECOMMENDATION 176:
Royal National Agricultural and Industrial Association (RNA)

Status quo.

8.3 Education and Training

Aboriginal Centre for Performing Arts Pty Ltd

The Centre is a not for profit company limited by shares (sole shareholder is the Minister for Education, Training and the Arts) and is governed by a board appointed by the State Government. Funding to support operation, training delivery, and the staging of productions is provided by the State Government.

The Centre is the only nationally Registered Training Organisation targeted at Indigenous learners that offers cross-genre accredited performing arts qualifications, and accepts both Indigenous and non-Indigenous students into its courses.

RECOMMENDATION 177:
Aboriginal Centre for Performing Arts Pty Ltd

Status quo.

²⁵⁴ S76 Department of Local Government, Sport and Recreation.

Aviation Australia

Aviation Australia was established as a centre of excellence for the aviation industry with the core purpose of training and skilling workers for the aerospace industry. It is a Registered Training Organisation and is marketed nationally. Aviation Australia is a proprietary company limited by shares with a governing board of directors.

The Reviewers would question whether this function still needs to be undertaken by the Queensland Government. However, the business is already subject to a sale process, coordinated through Queensland Treasury.

RECOMMENDATION 178:

Aviation Australia

The proposed sale of this business is supported.

Board of the Queensland College of Teachers

The Board is the governing body for the College which grants registration or permission to teach; takes disciplinary action; and monitors compliance with the objects of the *Education (Queensland College of Teachers) Act 2005*. The Teachers Disciplinary Committee, Professional Practice and Conduct Committee and a Review Committee are expressly established under the College's enabling legislation. The Board has general powers to form other committees.

The Reviewers agree that there are compelling reasons for regulatory, disciplinary and compliance functions to be performed by an entity with a degree of independence from a department, especially when the department participates in the field, is a stakeholder and/or has an interest in the decisions made and outcomes achieved.

The proposed national curriculum may impose changes on the way teachers are registered under those reforms.

RECOMMENDATION 179:

Board of the Queensland College of Teachers

Status quo.

Grammar Schools' Boards of Trustees

On the second threshold question under the Threshold Test–

should the Queensland Government undertake the proposed activity?

- the Reviewers have put to challenge why it is that these Grammar Schools need ongoing State Government involvement through the *Grammar Schools Act 1975*.

In other jurisdictions (NSW, Victoria, ACT and WA), grammar schools are established as private companies. There are many private schools in Queensland, including a number of grammar schools that are not within the purview or requirements of the *Grammar Schools Act 1975*. Those schools are established under the *Education (Accreditation of Non-State Schools) Act 2001*.

The Non-State Schools Unit, in the Department of Education, Training and the Arts, provides the same support and administration for all non-State schools. However, the Unit has to administer additional 'red tape' for the (*Grammar Schools Act*) Grammar Schools as required in managing the appointment processes for these schools, finding suitable nominees for the Minister's consideration and submission for Governor in Council approval (see pp. 34-37 and Appendix C). Under the *Grammar Schools Act 1975*, a Board of Trustees of a Grammar School is to consist of seven members appointed by the Governor in Council. The Governor in Council should not be burdened by these appointments.

In addition, these Grammar Schools report annually on their financial matters to the Minister for Education who subsequently is required to table the reports in the Legislative Assembly. This is a reporting mechanism not undertaken by other private schools.

Why could these Grammar Schools not operate like other private schools which act as trusts of monies and assets under the *Education (Accreditation of Non-State Schools) Act 2001*, rather than a separate Act?

What is the *advantage* (or disadvantage) for these schools, other schools, and the State in maintaining this separate legislative provision for the Grammar Schools?

Is there any *value* to be gained by these additional government processes in respect of Grammar Schools that effectively run as independent businesses accountable to the parents and students in the first instance, in any event?

What makes the Queensland situation so *unique compared with* other Australian jurisdictions?

The only reason the Reviewers could discover was the fact that the State owns the land on which the Grammar Schools conduct their businesses.

No public submissions were received from the Grammar Schools, although the Reviewers did individually invite their response to the Part A Report and the *Public Interest Map*.

Possible solutions to what seems to have become regarded as an 'untouchable' anomaly of history are:

Land Tenure Arrangements

- Deal with the imperative for the schools to continue their like use of the land without financial or other penalty, as the State might for some other non-government or charitable association, such as by long-term or perpetual low cost leasing arrangement ('peppercorn rental') or grant the land in trust for the stated purposes of the school, if current tenure arrangements must change.

Red Tape

- Repeal the *Grammar Schools Act 1975* and bring the Grammar Schools under the *Education (Accreditation of Non-State Schools) Act 2001*.

Alternatively, if it is desired to retain the *Grammar Schools Act 1975* to facilitate *start-up* of new grammar schools as a future policy choice or pathway, then-

- Legislate to transfer legislative responsibility for the current established Grammar Schools from the *Grammar Schools Act 1975* to the *Education (Accreditation of Non-State Schools) Act 2001*.
- Or, repeal the provisions in the *Grammar Schools Act 1975* that impose the government processing burden additional to that required for other non-State schools such as Governor in Council appointments to the governing board. If the land issue is not addressed as above, then less burdensome requirements to account for the Schools' use of State property might be appropriate.

The Governor in Council or the Minister should have no part in the nomination of appointments to what should be a private body.

RECOMMENDATION 180:**Board of Trustees of the Brisbane Girls' Grammar School****Board of Trustees of the Brisbane Grammar School****Board of Trustees of the Ipswich Girls' Grammar School****Board of Trustees of the Ipswich Grammar School****Board of Trustees of the Rockhampton Girls' Grammar School****Board of Trustees of the Rockhampton Grammar School****Board of Trustees of the Toowoomba Grammar****Board of Trustees of the Townsville Grammar**

The *Grammar Schools Act 1975* should be repealed and the Grammar Schools (formerly under that Act) should be brought within the *Education (Accreditation of Non-State Schools) Act 2001*.

University Councils/Senate

Universities are State statutory bodies, but receive most of their public funding (and policy direction) from the Commonwealth.²⁵⁵

There is no direct cost to the Queensland Government for these bodies. The bulk of State Government funding is through competitive grants schemes to the Universities.

National Governance Protocols apply broadly to the make up and functions of university governing bodies. There are also nationally agreed conventions on the extent of their commercial powers under enabling legislation.

RECOMMENDATION 181:**Council of Griffith University****Council of James Cook University****Council of the Central Queensland University****Council of the Queensland University of Technology****Council of the University of Southern Queensland****Council of the University of the Sunshine Coast****Senate of the University of Queensland**

Status quo.

²⁵⁵ Department of Education, Training and the Arts – Office of Higher Education, December 2008.

Gold Coast Institute of TAFE Board
Southbank Institute of Technology (Board)

The *Queensland Skills Plan*²⁵⁶ acknowledged the rapidly changing training market posed real challenges for the responsiveness of the current TAFE operating model. It noted that under the current model, TAFE institutes compete against private training providers using different governance structures.

The *Queensland Skills Plan* proposed the Government commit to developing a commercial governance model for TAFE Institutes (13 in metropolitan and regional areas). Whilst this model has only been implemented by two TAFE institutes to date (Gold Coast and Southbank), it is open to all institutes subject to their meeting the strict criteria.

The Department advised that the key difference between TAFE Institutes under the current operating model and statutory TAFE Institutes under s.218E of the *Vocational Education, Training and Employment Act 2000* is that the statutory TAFE Institutes have greater autonomy and flexibility to drive commercial outcomes at the local level.²⁵⁷

The *Vocational Education, Training and Employment Act 2000* provides that in performing its functions (to produce and sell services) the statutory TAFE institutes are to be 'commercially successful', and 'efficient and effective' (including in the provision of 'community service obligations'). Commercial success, efficiency and effectiveness of a statutory TAFE Institute are to be measured against its financial and non-financial performance targets stated in its operational plan.²⁵⁸

These objects, as defined, would appear not dissimilar to those expected for the broader public sector. The governance framework would appear to provide for clarity and agreement on expected performance, and reporting responsibilities.

The independent governing Boards are accountable to both the Minister and the Director-General of the Department for the institute's performance, through the operational plan, agreements and legislative framework.

The Southbank Institute of Technology transitioned to statutory TAFE institute status on 1 April 2008, followed by Gold Coast Institute on 1 July 2008. Given the public interest risks and challenges confronting mandates to act commercially (with flexibility and autonomy) with public monies/capital or public powers²⁵⁹ (and this reform is in early stages of implementation), a post-start up review²⁶⁰ to examine governance practices and outcomes within agreed frameworks, as compared with the stated objects of the statutory TAFE Institutes, would be prudent within the first two

²⁵⁶ Department of Education, Training and the Arts, *Queensland Skills Plan*, 2008.

²⁵⁷ Department of Education, Training and the Arts – Audit Response, September 2008.

²⁵⁸ *Vocational Education, Training and Employment Act 2000*, s.218E(3)-(4).

²⁵⁹ See Part A Report, pp. 25-41, and Part B Report, Appendix A.

²⁶⁰ These reviews would also include relevant consideration of Federal Government reform to higher education including a federal regulator to register, accredit and monitor courses and providers, and performance standards nationwide for essentially State-owned TAFEs: *The Sydney Morning Herald*, 6 March 2009.

years of operation. Systemic improvements can assist transition of future statutory TAFE institutes.

RECOMMENDATION 182:

Gold Coast Institute of TAFE Board
Southbank Institute of Technology (Board)

Status quo.

A post-start up review to examine governance practices and outcomes within the agreed frameworks, as compared with the legislative objects of the statutory TAFE institutes, should occur within the first two years of operation.

Ministerial Advisory Council for Science, Technology, Engineering and Manufacturing

The primary role of the Council is to provide a high level, independent source of advice on matters related to science, technology, engineering and mathematics education and training. The responsible Minister's aim for the Council is to inform and extend the work done by the Department in developing a draft 10 year plan for science, technology, engineering and mathematics education and skills. The Council is also to provide expert advice to guide implementation of the plan as well as advocacy and leadership around science, technology, engineering and mathematics education and training in the broader community.

Up to six committee meetings are planned until the committee's term expires at the end of 2009 with the task of finalising the plan, overseeing its release and early implementation. Any future role will be assessed at that time.

RECOMMENDATION 183:

Ministerial Advisory Council for Science, Technology, Engineering and Manufacturing

Status quo, with the Council sunseting as at the end of 2009.

Non-State Schools Accreditation Board
Non-State Schools Eligibility for Government Funding Committee

The Board is to uphold the standards of education at non-State schools through stringent accreditation assessment, monitoring and compliance programs. The Committee assesses school's eligibility for government funding and advises the Minister.

The Board's regulatory and compliance role and the Committee's funding allocation functions are necessarily independent of the State government department (that establishes, conducts and resources State schools), and should remain as functionally separate bodies.

The Reviewers accepted the detailed *Public Interest Map* analysis provided by the Board and Committee (S64).

RECOMMENDATION 184:

Non-State Schools Accreditation Board

Non-State Schools Eligibility for Government Funding Committee

Status quo.

Queensland Studies Authority

This body is responsible for school education curriculum in Queensland. It accredits syllabuses, develops and marks test, decides on procedures for assessments of students, moderates, and issues certificates.

There is a compelling *Public Interest Case*²⁶¹ for the Authority's independence from the department (which has interests in the decisions made and outcomes achieved) and from the responsible Minister.

...the function of syllabus development requires some significant protection from the political process to ensure that both syllabus content and form are evidence-based, consistent with good practice and not subject to external interference. Currently, the Minister, may direct the QSA to develop or purchase a syllabus, but may not give directions about the content or approval of a syllabus²⁶²

The Queensland Studies Authority (QSA) (S62) advised that the QSA was established to reduce duplication that existed between the three original statutory authorities. However, 'significant duplication' remains in the education sector-

²⁶¹ S62 Queensland Studies Authority.

²⁶² S62 Queensland Studies Authority.

... there exists a Curriculum Division [in the department], which performs functions that are similar to the QSA. This Division is larger than its QSA equivalent, the Teaching and Learning Division. The result is both duplication of effort and, on some occasions, an adulteration of initiatives developed, approved and implemented by QSA. This occurs despite the fact that the state schooling sector is well represented on the Authority and its committees, and is party to the decision-making processes of the QSA.

A similar case of duplication exists between the QSA and the Non-State Schools Accreditation Board, which is another statutory body within the education portfolio. One of the functions of the Accreditation Board is to assess applications for accreditation of non-state schools against certain criteria. In effect this involves approving the curriculum programs of the prospective new schools, a function the QSA is better placed to perform given its responsibilities and expertise in the areas of syllabuses development and assessment.²⁶³

The QSA (S62) also outlined concerns for genuine independence of its role.²⁶⁴

The Reviewers note that in pursuit of national curriculum reform, the Australian Government established a National Curriculum Board in early 2008 to develop a national curriculum from Prep to Year 12 by 2010, for implementation in 2011. This body becomes the Australian Curriculum, Assessment and Reporting Authority, an independent statutory authority, with more responsibilities under recent federal legislation commencing in early 2009.

Whether the new national statutory authority will take over the role of the QSA remains to be debated.

In addressing this Review's terms of reference to reduce excess bureaucracy and red tape, the Reviewers recommend that the Department's curriculum role and activities, and the intersections with other education portfolio bodies such as the Non-State Schools Accreditation Board, should be clarified and settled as part of the structural and operational decisions taken for a national curriculum.

RECOMMENDATION 185:
Queensland Studies Authority

Status quo, pending decisions taken for national curriculum reform.

Respective roles of the Department and its education portfolio bodies concerning curriculum activities should be clarified and settled as part of the structural and operational decisions taken for a national curriculum.

²⁶³ S62 Queensland Studies Authority, p. 5.

²⁶⁴ S62 Queensland Studies Authority, pp. 5-6.

The Building and Construction Industry Training Fund (BCITF) (Qld)

This Fund is an incorporated public company limited by guarantee with the rights of the sole member exercised through the Minister for Education and Training and Minister for the Arts for the State. Construction Skills Queensland is the trading name for BCITF Ltd.

The Fund is generated through a training levy on industry under the *Building and Construction Portable Long Service Leave Act 1991* and is part of a national program to support building and construction industry training and improved safety conditions.

The Fund's training focus is also functionally different from the range of regulatory activities undertaken by the Queensland Building Services Authority.

RECOMMENDATION 186:

The Building and Construction Industry Training Fund (BCITF) (QLD)

Status quo.

Training and Employment Recognition Council Training Ombudsman

The Council has a statutory role of ensuring the quality of vocational education and training services/products in Queensland through strengthened accountability and audit processes. Its regulatory functions include regulating apprenticeships and traineeships; accrediting and regulating accredited courses; regulating the issue of qualifications and statements of attainment; and group training organisations. The Council also provides strategic and policy advice to the Minister.

The Training Ombudsman may *receive* complaints from a party to a training contract (i.e. apprentice, trainee, employer) and *send* them on to the Training and Employment Recognition Council (or another entity that has jurisdiction to deal with the complaint).²⁶⁵ If requested by a party to a training contract, the Training Ombudsman may review the investigation of a referred complaint by the Training and Employment Recognition Council, but the Ombudsman can only make recommendations about its review back to the Training and Employment Recognition Council. The Training Ombudsman has also facilitated public forums throughout Queensland and written reports concerning apprenticeships and traineeships. The Department advised the Reviewers that there are no performance measures for the Training Ombudsman.

²⁶⁵ *Vocational Education, Training and Employment Act 2000*, s. 134; Department of Education, Training and the Arts – Audit Response, September 2008, p. 2.

Fifty-two (52) formal complaints were received by the Training Ombudsman in 2007-08.²⁶⁶ 572 enquiries were made with 52 formal complaints being investigated, 3 pending resolution.

The annual salary costs of the Training Ombudsman (and 2 administrative support staff) plus administration is \$323,486.

The Reviewers consider that the *Public Interest Case* is not made to justify the continuation of the Training Ombudsman because the functions overlap, or can be assumed by, the independent Training and Employment Recognition Council and/or the portfolio department.

The Department already entertains complaints and exercises decision-making powers (Training Quality Complaints Unit as well as the Apprenticeship Hotline), engages with stakeholders, promotes vocational education and training, and provides policy advice.

The Training and Employment Recognition Council investigates and determines the complaints, and provides independent stakeholder engagement (also throughout the State), as well as promotion of respective rights and responsibilities in vocational education and training, and policy advice to the Minister.

RECOMMENDATION 187:
Training and Employment Recognition Council

Status quo. Legislation would need to be amended to enable the Council to receive formal complaints directly instead of via the Ombudsman.

Training Ombudsman

Abolish.

8.4 Emergency Services

Emergency Services Advisory Council
Rural Fire Advisory Council

The primary role of the Emergency Services Advisory Council is to advise the Minister for Emergency Services on service delivery and performance. The Rural Fire Advisory Council is to advise on response and preparedness for rural fires and service delivery.

²⁶⁶ Training Ombudsman, *Annual Report 2007-08*, p. 5.

The Department of Emergency Services advised that both Councils will be merged as a 'single council with key stakeholder representation would provide appropriate advice on a whole of department perspective'.

The merged Council satisfies the Threshold Test.

RECOMMENDATION 188:
Emergency Services Advisory Council
Rural Fire Advisory Council

Status quo, as a merged Council.

Disaster Appeals Trust Fund Committee

The Committee is established under the *Collections Act 1966* to act as an independent check on the Public Trustee to ensure disbursement for like purposes of public charitable funds raised from any appeal for persons suffering distress as a result of any natural catastrophe or disaster. The Committee can direct the Public Trustee on investment and payment of those funds, and the Public Trustee must comply.

In addition to the Public Trustee, there must be four members of the Committee, appointed by the Governor in Council for three year (renewable) terms. The practice is for the four members to all be senior public servants of relevant portfolios (no remuneration).

The Committee would require a statutory basis to have the power to direct the Public Trustee. However, there is no need for these essentially ex officio public servant members to be appointed by the Governor in Council (with attendant processing costs). Statutory appointment by the chief executive of the justice portfolio department (of which the Public Trustee is part) would suffice.

RECOMMENDATION 189:
Disaster Appeals Trust Fund Committee

Status quo, except that the enabling legislation should be amended to provide for appointment of members by the chief executive (of the justice portfolio of which the Public Trustee is part) instead of by the Governor in Council.

8.5 Health/Medical

Health Community Councils (x 37)

The aim of the Health Community Councils is to strengthen community input and help ensure that the delivery of public sector health services is highly responsive within their local district.²⁶⁷ Under the *Health Services Act 1991*, the Councils' functions are to–

- undertake community engagement activities about the health of, or health care for, the community;
- monitor the quality, safety and effectiveness of local public sector health services;
- consider and evaluate reports about the delivery of local public sector health services;
- enhance community education about the delivery of public sector health services;
- advise, and make recommendations to, the district manager; and
- report annually to the Minister.²⁶⁸

The Councils have been established to provide for community involvement in relation to the delivery of public health services in local districts. The Queensland Health Systems Review (incorporating the Forster Review and Davies Enquiry) specifically recommended that Government needed to have a mechanism whereby the community could directly advise and monitor in regard to the delivery of health services in their district.²⁶⁹

The Health Community Councils may not be that 'mechanism'.

A number of factors were brought to the Reviewers' attention that doubt whether there is a compelling reason to justify the continuation of the Councils, in an objective assessment of the Public Interest Case.

- Role clarity and **relevance** to making any difference. The number one challenge for district managers after the first ten months was, 'Council role including role readiness and capability, role clarity and *providing councils with meaningful roles*' (emphasis added).²⁷⁰

In September 2008, a current council member said-

...I do feel that I am a rather irrelevant cog in the QH wheel. There are checks and balances in place for everything that we do as a council, and we just seem to be another layer of unnecessary bureaucracy. I

²⁶⁷ Queensland Health – Audit Response, August 2008.

²⁶⁸ *Health Services Act 1991, Part 3B, Div 1, 28M (f)*.

²⁶⁹ Queensland Health – Audit Response, August 2008, p. 5.

²⁷⁰ Health Community Councils, *Progress Report Highlights*, June 2008, p. 2.

have been with the council for about 12 months and have enjoyed my involvement, however, I do not feel that I add any value to QH.

Over the time that I have been involved, I have observed other structures and panels added which appear to duplicate some of what we do.

... the reduction of bureaucratic bodies would be the best action that could be taken. The numerous Councils, boards and panels that abound within the system do not add one iota of quality to the health of the general public, and the money that could be saved by reducing some of these bodies would be better spent at the coalface of care.²⁷¹

- One of the key functions of the Councils is to undertake **community engagement** activities. Review consultations suggested that some Councils are finding that function difficult through want of capability, resources, or guidance. This assessment is supported by the May 2008 'snapshot' survey that was undertaken to form the June 2008 Health Community Councils' Progress Report to the Minister where community engagement was a common challenge perceived by-
 - chairpersons and district managers ('community engagement including lack of framework for community engagement, developing best practice in community engagement and most appropriate strategies to deliver positive outcomes'); and
 - support officers ('council role including role readiness and capability, role clarity and providing councils with meaningful data, role in community engagement').

For the 37 districts in the first ten months of operation '90 activities in total [were] undertaken to inform and consult with communities'. The Report recommended: 'build capacity of council members in community engagement and community education'.²⁷²

- Difficulty in filling **vacancies** and retaining members has proved a challenge. Once nominations are made, there are reported long **delays** for the appointments to be made.
- **Resourcing** constraints to support the needs for Councils, and the processing burden, availability and quality concerns for the safety and effectiveness **reports** the Councils are to consider and evaluate, plus workload concerns for Council members.²⁷³
- The Health Consumers Queensland Ministerial Consumer Advisory Committee **covers similar objectives** in providing 'an independent and strong voice for the diversity of consumers in Queensland'. (see pp. 192-193)

²⁷¹ C9 Ms Theresa Nicholas.

²⁷² Health Community Councils, *Progress Report Highlights*, June 2008, p. 2.

²⁷³ Health Community Councils, *Progress Report Highlights*, June 2008, p. 2.

- The Councils **cost** \$860,000 annually in Council sitting fees alone, add departmental and secretariat support costs and administration expenses throughout Queensland.

On the other hand, the Reviewers had two public submissions putting an alternative view: the North Burnett (S24) and the Gold Coast Health (S71) Community Councils. The Gold Coast Health Community Council (S71) argued that independence and essential public participation and community engagement made the Public Interest Case in favour of the Councils but that there should be fewer Councils.

When the reformed Health Community Councils were established in July 2007 there were 37 Health Districts in Queensland Health. In September 2008, Queensland Health reduced the number of Health Districts to 15 but did not reduce the number of Health Community Councils. Some individual Health Districts are now served by up to five Councils.²⁷⁴

The Reviewers acknowledge that it may be too early to assess the Council structure's proof of the threshold criteria, but not so in consideration of the nature and extent of the challenges being experienced and the not insignificant cost of the additional bureaucracy and processes from already challenged resources.

The Public Interest Case requires that public participation and consultation needs to be essential and superior compared with alternative mechanisms. Otherwise *by definition* there is excess bureaucracy and red tape - paid for by the public purse. The Public Interest Case determines whether to create (continue) an additional non-departmental body or not.

Although for some Health Districts the Health Community Council structure may be providing essential and superior public interest value, the same can not be said of the structure on a State wide basis. This is the crux. This variance should be for the department to determine in the conduct of its departmental responsibilities.

That is the Public Interest Case.

Overriding that informed judgment by a legislated structure applying the same form, the same way, for all localities in the State can hamper (or excuse) Health District heads from getting effective, efficient, relevant consultation outcomes on local health services.

This is not to deride for an instant subsequent review exhortation to have mechanisms whereby the community could directly advise on, and monitor, local health services. That is essential. Nor is it to dismiss the public interest value in mandating independent review of local service delivery in recognition of the findings of reviews that have gone before. But those are objectives, not structures.

²⁷⁴ S71 Gold Coast Health Community Council Individual Member.

It might be, alternatively, that-

- those *objectives* (local community advice and independent local review) are mandated by the legislature, rather than the structures;
- the (15) Health District Heads, the Chief Executive, and Queensland Health are then required to account to the responsible Minister, and through the Minister to the Parliament, on the performance of those objectives;
- Health Community Councils may be the preferred mechanism in some Health Districts (their powers and functions could remain in the Act as one form choice available to the department to meet its objectives);
- departmental focus groups, or a dedicated community liaison effort by human and/or other resources (e.g. service surveys (*in situ*; paper or online), a *hotline online* concept for open community engagement and feedback using technological efficiencies²⁷⁵) or by strategies such as community engagement through existing non-government organisation (or other local) networks, may be more efficient, effective, or relevant to local circumstances; and
- Consultation data is then regularised not at the receiving (community level) but in the reporting (departmental - Health District Head level) for efficient input or translation across the health system, as may be relevant.

All, or none, of these activities may be done currently²⁷⁶. They are included to underscore the Reviewers' conclusion that the Public Interest Case has not been made for mandating 37 Health Community Councils.

²⁷⁵ The UK Government's recent *Working Together* plan aims to use technology to empower citizens by allowing the public to give feedback on services like health and childcare. Prime Minister Brown said, 'We are ushering in a new world of accountability in which parents, patients and local communities shape the services they receive, ensuring all our public services respond not simply to the hand of government, but to the voice of the people'. <http://www.number10.gov.uk/Page18564>

²⁷⁶ The Health Consumers Queensland Ministerial Community Advisory Committee is tasked to 'develop a framework that promotes and informs the individual, broader community and systemic health consumer engagement and representation'. (see p. 192)

RECOMMENDATION 190:**Health Community Councils (x 37)****Banana Health Community Council****Bayside Health Community Council****Bowen Health Community Council****Bundaberg Health Community Council****Cairns Health Community Council****Cape York Health Community Council****Central Highlands Health Community Council****Central West Health Community Council****Charleville Health Community Council****Charters Towers Health Community Council****Fraser Coast Health Community Council****Gladstone Health Community Council****Gold Coast Health Community Council****Gympie Health Community Council****Innisfail Health Community Council****Logan-Beaudesert Health Community Council****Mackay Health Community Council****Moranbah Health Community Council****Mount Isa Health Community Council****North Burnett Health Community Council****Northern Downs Health Community Council****Princess Alexandra Hospital Health Community Council****Queen Elizabeth II Hospital Health Community Council****Redcliffe-Caboolture Health Community Council****Rockhampton Health Community Council****Roma Health Community Council****Royal Brisbane and Women's Health Community Council****Royal Children's Hospital Health Community Council****South Burnett Health Community Council****Southern Downs Health Community Council****Sunshine Coast Health Community Council****Tablelands Health Community Council****The Prince Charles Hospital Health Community Council****Toowoomba Health Community Council****Torres Strait and Northern Peninsula Health Community Council****Townsville Health Community Council****West Moreton Health Community Council**

Abolish.

Health and Hospital Foundations (x12)

These statutory bodies are local fundraising bodies for an associated hospital with powers to manage and apply those funds for the betterment of health services generally or the administration of an associated hospital under the *Hospitals Foundations Act 1982*.

Eight of the Foundations are in South East Queensland, only four regional areas benefit directly from the Foundation effort. Excluding the Government managing the appointment process, the combined administrative cost of the 12 Foundations is \$3,500,000 annually. The Foundations are self-funding, and in the 2006/07 financial year their total expenditure was more than \$16.92m, including grant distributions.

Each body consists of between ten and 16 members all of whom are appointed by the Governor in Council.²⁷⁷ There are 140 Governor in Council appointed members in total, although the Reviewers are advised that a number of the bodies are carrying vacancies that are becoming increasingly difficult to fill despite efforts to do so. This makes for an expensive government process (see pp. 34-37 and Appendix C).

Members are not remunerated.

The Threshold Test asks- should the Queensland Government undertake these fundraising activities (that are essentially locally run, successful, volunteer fundraisers supplementing government-funded services)?

The Queensland Government provides the primary funding for those hospitals and health services generally. The Queensland Government undertakes, promotes and facilitates health and medical research. The Minister for Health recently announced, for example, a new structure in Queensland Health to support one of the Foundations-

Last week I announced the establishment of Queensland Health's Office of Health and Medical Research as part of our \$25.65m Smart State Medical Research and Development Strategy... The Office of Health and Medical Research will support the Royal Brisbane and Women's Hospital Foundation to deliver improved health care services for all Queenslanders.²⁷⁸

The Foundations' work is valuable, viable and has a history of successes for the 'betterment' of health services. They should no longer be a non-departmental government body but independent in their own right.

The Reviewers recommend the Foundations move to an independent non-government organisation model, which-

- preserves the value of local branding and fundraising achievements;

²⁷⁷ *Hospitals Foundations Act 1982*, ss.18, 20.

²⁷⁸ Minister for Health - Ministerial Statement 11 February 2009.

- upholds good governance and accountability to key stakeholders (donors, patients, local community, and the associated hospital);
- has a clear charter of roles and responsibilities; but
- does not need the overlay of government bureaucracy.

RECOMMENDATION 191:

Bundaberg Health Services Foundation

Far North Queensland Hospital Foundation

Gold Coast Hospital Foundation

Ipswich Hospital Foundation

PA Foundation

Redcliffe Hospital Foundation

Royal Brisbane and Women's Hospital Foundation

Royal Children's Hospital Foundation

Sunshine Coast Health Foundation

The Prince Charles Hospital Foundation

Toowoomba Hospital Foundation

Townsville Hospital Foundation

The Foundations should become independent non-government charitable organisations.

Health Practitioner Registration Boards (x 14)
Queensland Nursing Council

In 2007, COAG agreed to establish a single national scheme for the registration and accreditation of health professionals. The National Registration and Accreditation Scheme will apply initially to-

Chiropractors Board of Queensland
 Dental Board of Queensland
 Dental Technicians
 Health Practitioners Board of Queensland
 Optometrists Board of Queensland
 Osteopaths Board of Queensland
 Pharmacists Board of Queensland
 Physiotherapists Board of Queensland
 Podiatrists Board of Queensland
 Psychologists Board of Queensland

The first stage of legislation was introduced in the Queensland Parliament in October 2008 for the governance and legal structure, as follows-

- Australian Health Workforce Ministerial Council and an Australian Health Workforce Advisory Council;

- Australian Health Practitioner Regulation Agency (for setting business rules for the development of health professional standards, developing procedures to ensure efficient and effective operation of the National boards and providing them with administrative assistance, maintaining national registers and agreeing on fees applicable to professions in consultation with Boards);
- Agency Management Committee; and
- National Boards for each of the ten professions, to develop standards for registration and accreditation, oversee the registration of health practitioners and assessment of overseas trained health practitioners, monitoring practice conditions imposed on health practitioners, and conduct investigations and disciplinary hearings. Hearing of serious disciplinary matters will be undertaken by bodies external to the scheme, nominated by each jurisdiction.

The second stage of the scheme (planned for introduction into Queensland Parliament in August 2009), will cover remaining substantive elements such as registration and accreditation arrangements, complaints and enforcement arrangements, privacy and information sharing.

The national scheme is to be implemented by 1 July 2010.

If, under the National Registration and Accreditation Scheme, the existing bodies are to be consolidated into one national authority (with a State presence through offices of that Australian Government entity) then the status quo should prevail pending consolidation as part of the national scheme.

However, on the premise that each State is to constitute its own mechanism to support the national scheme, then the Reviewers recommend that all the Health Practitioner Registration Boards (including those not yet part of the national registration scheme) should be consolidated into one statutory authority that streamlines like processes and engineers 'back of office' savings in the performance of its functions and its accountabilities. The single statutory authority should be national scheme compliant. The functions for the four additional boards will be surplus to national scheme requirements but enable a common health practitioner registration portal from a State perspective, pending further national reform for their subsequent inclusion.

RECOMMENDATION 192:**Chiropractors Board of Queensland****Dental Board of Queensland****Dental Technicians****Health Practitioners Board of Queensland****Optometrists Board of Queensland****Osteopaths Board of Queensland****Pharmacists Board of Queensland****Physiotherapists Board of Queensland****Podiatrists Board of Queensland****Psychologists Board of Queensland****Queensland Nursing Council***Boards not part of national scheme to date:***Dental Prosthetists Board of Queensland****Medical Radiation Technologists Board of Queensland****Occupational Therapists Board of Queensland****Speech Pathologists Board of Queensland**

Consolidate into one health practitioner registration statutory authority that is national scheme compliant but includes the additional health practitioner registration boards not yet part of the national scheme.

Health Practitioners Panel of Assessors (x 16)

These bodies will also fall within scope of the National Registration and Accreditation Scheme to commence by July 2010 (see above) and will be affected by the Queensland Civil and Administrative Tribunal reforms. Their residual functions should be consolidated into the single health practitioner registration statutory authority, suitably structured to accommodate them.

RECOMMENDATION 193:**Chiropractors Panel of Assessors****Dental Auxiliaries Panel of Assessors****Dental Panel of Assessors****Dental Technicians Panel of Assessors****Medical Practitioners Panel of Assessors****Optometrists Panel of Assessors****Osteopaths Panel of Assessors****Pharmacists Panel of Assessors****Physiotherapists Panel of Assessors****Podiatrists Panel of Assessors****Psychologists Panel of Assessors****Public Panel of Assessors***Not part of national scheme to date:***Dental Prosthetists Panel of Assessors****Medical Radiation Technologists Panel of Assessors****Occupational Therapists Panel of Assessors****Speech Pathologists Panel of Assessors**

Consolidate ongoing functions into one health practitioner registration statutory authority suitably structured to accommodate them. The statutory authority should be national scheme compliant but include the additional health practitioner registration boards that are not part of the national scheme.

Health Consumers Queensland Ministerial Consumer Advisory Committee

This Committee was established in January 2008 to deliver on recommendations in the *Queensland Health Systems Review: Final Report* (Foster Report) for a Queensland health consumer body. The Committee was established to provide an independent and strong voice for the diversity of consumers in Queensland. The terms of reference also require the Committee to 'develop a framework that promotes and informs the individual, broader community and systemic health consumer engagement and representation'.²⁷⁹

The ministerial advisory committee members should not be remunerated (see 3.3.1 Committees and Councils, pp. 38-39).

²⁷⁹ Queensland Health – Audit Response, August 2008.

RECOMMENDATION 194:**Health Consumers Queensland Ministerial Consumer Advisory Committee**

Status quo, except there should be no remuneration for members of a ministerial advisory committee.

Health Quality and Complaints Commission

This Commission needs to be independent of Queensland Health to provide independent review of health service complaints, make standards for the quality of health services, assess quality of service, and recommend ways of improving health services.

Should future national health reform affect the functions of the Commission, then further review of its Public Interest Case would be required at that time.

RECOMMENDATION 195:**Health Quality and Complaints Commission**

Status quo.

Mental Health Court***Mental Health Review Tribunal***

The Mental Health Review Tribunal provides independent review to safeguard the rights of patients receiving involuntary treatment for mental illness.

The Mental Health Court is an independent *judicial* function to determine references concerning questions of unsoundness of mind and fitness for trial in relation to persons charged with offences on indictment, appeals from the Tribunal, and inquires into the lawfulness of patients' detention in authorised mental health services.

An independent *Review of the Forensic Provisions of the Mental Health Act 2000* (Butler Review) was completed in 2006 with accepted recommendations implemented from January 2008.

RECOMMENDATION 196:
Mental Health Court
Mental Health Review Tribunal

Status quo.

Office of the Medical Board of Queensland

The functions of the Board cannot be performed by the department as they are peer assessed regulatory functions which should be independent of employer influence. The Board registers medical practitioners and specialists, promotes high standards of practice, and deals with disciplinary matters.

All state and territories have similar bodies which will be subsumed into a national agency from 1 July 2010 under the National Registration and Accreditation Scheme.

RECOMMENDATION 197:
Office of the Medical Board of Queensland

Status quo, until consolidation of the existing bodies as part of the National Registration and Accreditation Scheme by July 2010.

Queensland Fluoridation Committee

The Water Fluoridation Committee was established in December 2008 to advise the Minister for Health, on the safety and efficacy of fluoridation of public potable water supplies in Queensland; the making, amending or repealing of regulations under the *Water Fluoridation Act 2008*²⁸⁰; the operation and application of the Act.

The committee has been approved for two years. Committee will be remunerated at Category F1.

RECOMMENDATION 198:
Queensland Fluoridation Committee

Status Quo, with the two year sunset clause to be invoked.

²⁸⁰ *Water Fluoridation Act 2008*, s.77.

Queensland Institute of Medical Research Trust
Council of the Queensland Institute of Medical Research

The Trust raises and invests funds for and on behalf of the Queensland Institute of Medical Research Council. The Council is responsible for the control and management of the Queensland Institute of Medical Research which is Queensland's premier health and medical research institution with a worldwide reputation in its pursuit of prevention and cures for cancer, malaria and infectious diseases.

The structure is complex and separates the financial functions from scientific priorities which can cause differences in the priorities of the two bodies.²⁸¹

Most of other similar research institutes have only one governing body that directs both the scientific priorities and financial functions. The Reviewers considered the merits of combining the two bodies but decided on balance that their functions were fundamentally different (both successful) and were best served by different skills sets. The Trust comprises members with particular expertise in investment and finance, whereas Council members have expertise in health and medical research, health practices and ethics. On that premise, the Reviewers decided that the structures remain the same except that the bodies' composition should be altered so that one member of the Trust sits on the Council and one member of the Council sits on the Trust to ensure mutual strategic understandings and alignment of priorities.

The Reviewers note that there is a current review of the *Queensland Institute of Medical Research Act 1945* which can test the skills membership premise as membership composition is within the terms of that review.

RECOMMENDATION 199:

Queensland Institute of Medical Research Trust
Council of the Queensland Institute of Medical Research

Status quo, except for a change in membership to provide for dual membership to be held by one member of each body (i.e. one member of the Trust to sit on the Council and one member of the Council to sit on the Trust).

Queensland Ministerial Advisory Committee on HIV/AIDS, Hepatitis C and Sexual Health

The Reviewers are advised that the Committee was established to analyse the outcomes of the Strategic Consultative Forum and the Annual Progress Report on the *Queensland HIV, Hepatitis C and Sexually Transmissible Infections Strategy 2005-2011*. Queensland Health's Communicable Diseases Unit convenes interagency forums such as this Committee and other working groups 'to progress coordinated

²⁸¹ Queensland Health – Audit Response, August 2008.

responses on priority issues'.²⁸² The 21 members are remunerated except for the seven public servants.

The Reviewers accept that advice independent of the department is necessary but recommend that the focus and effectiveness of the Committee as it relates to the Strategy on an ongoing basis should be reviewed by the Minister together with a reduction in size of membership. As a ministerial advisory council, members should not be remunerated (see 3.3.1 Committees and Councils, pp. 38-39).

RECOMMENDATION 200:

Queensland Ministerial Advisory Committee on HIV/AIDS, Hepatitis C and Sexual Health

The focus and effectiveness of the Committee as it relates to the *Queensland HIV, Hepatitis C and Sexually Transmissible Infections Strategy 2005-2011* on an ongoing basis should be reviewed by the Minister together with a reduction in size of membership. As a ministerial advisory committee, members should not be remunerated.

Radiation Advisory Council

The Council is a statutory body established as an independent watchdog to oversee the administration of the *Radiation Safety Act 1999*. There is no other independent body with radiation expertise in Queensland that could do this work.²⁸³

RECOMMENDATION 201:

Radiation Advisory Council

Status Quo.

Rural Health Advisory Council

This ministerial advisory body provides 'strategic advice to the Minister for Health on contemporary rural health issues'. The Minister receives a *post-forum* briefing from the Chairperson.

Rural health community consultation should occur through the department's new Office of Rural and Remote Health.

²⁸² Queensland HIV, Hepatitis C and Sexually Transmissible Infections Strategy 2005-2011, p. 34.

²⁸³ Queensland Health – Audit Response, August 2008.

RECOMMENDATION 202:
Rural Health Advisory Council

Abolish, and transfer the rural health community consultations to the Office of Rural and Remote Health.

8.6 Housing

Brisbane Housing Company

The Brisbane Housing Company is an independent, not for profit charitable company to deliver affordable housing to low-income households in Brisbane. There are 16 shareholders, both the Queensland Government (two shares) and the Brisbane City Council (one share) are ordinary shareholders. There are 15 community shareholders.²⁸⁴

RECOMMENDATION 203:
Brisbane Housing Company

Status quo.

Queensland Community Housing Standards and Accreditation Council

The Council was established to oversee the introduction and strategic development of an accreditation system aimed at promoting quality and continuous improvement in community housing through certification of service providers against nationally agreed standards.

The Department advised that 'a continuing role for the provision of standards is essential given that accreditation is now a mandatory requirement for some providers'. The Council is engaging with stakeholders to advise the department on a consideration of transferring the responsibility for the delivery of standards and accreditation services in Queensland to a non-government service provider.²⁸⁵

RECOMMENDATION 204:
Queensland Community Housing Standards and Accreditation Council

Status quo, pending outcome of a review to transfer responsibility for the delivery of standards and accreditation services to a non-government service provider.

²⁸⁴ S22 Brisbane Housing Company Ltd; and Department of Housing – Audit Response, August 2008.

²⁸⁵ Department of Housing – Audit Response, August 2008.

Residential Tenancies Authority

This is a self-funded, independent regulatory body responsible for the administration of the *Residential Tenancies Act 1994* and the *Residential Services (Accommodation) Act 2002*. A General Manager reports to a governing board. The Authority regularly conducts internal reviews and stakeholder reviews are undertaken every two years.

RECOMMENDATION 205:
Residential Tenancies Authority

Status quo.

8.7 Sport

Gold Coast Events Co. Pty Ltd

This body is a 'for profit' corporation that represents the interests of the state in the planning, management and conduct of nominated motor racing events in Queensland.

RECOMMENDATION 206:
Gold Coast Events Co. Pty Ltd

Status quo.

Partnership Management Committee

This Committee comprises representatives of the Gold Coast Events Co. Pty Ltd and the International Management Group of America (IMG), together with an independent member. The Committee is responsible for the overall planning, supervision and control of the commercial partnership agreement to stage and promote the Gold Coast motor racing event.

The application of the recommended Good Governance Framework to the government-owned company, Gold Coast Events Co. Pty Ltd, will increase the level of transparency and accountabilities due the responsible Minister and arising from the application of public monies and involvement in ventures such as this commercial partnership arrangement. (see pp. 50-57 and Appendix A).

RECOMMENDATION 207:
Partnership Management Committee

Status quo.

Queensland Academy of Sport Board of Management

The Queensland Academy of Sport supports the state's elite sportspersons. The Board oversees the strategic direction of the Academy, makes recommendations to the Minister and reviews the Academy's financial position. The role is specialist and the Board includes a number of former elite athletes and leaders in the Queensland sporting community.²⁸⁶ The board meets eight times a year. The board's budget is usually underspent and is funded from the Gaming Machine Levy.

RECOMMENDATION 208:
Queensland Academy of Sport Board of Management

Status quo.

Stadiums Queensland

Stadiums Queensland is a facilities manager with a statutory mandate to operate according to commercial principles. The combined asset value held by Stadiums Queensland is currently over \$1bn. This statutory body was established under the *Major Sports Facilities Act 2001* to own, operate, use and promote the State's major sport, recreation and entertainment facilities, capable of staging major national and international events. There are up to seven independent members of the governing board.²⁸⁷

RECOMMENDATION 208:
Stadiums Queensland

Status quo.

Suncorp Management Advisory Committee

This body is an advisory committee established by and accountable to the commercial operator of Suncorp Stadium. It was established in accordance with the

²⁸⁶ C4, Ms Daphne Mirie, Deputy Chair, Queensland Academy of Sport; Department of Local Government, Sport and Recreation – Audit Response, January 2009.

²⁸⁷ Department of Local Government, Sport and Recreation – Audit Response, January 2009.

Development Approval for the redevelopment of Suncorp Stadium and is essential for stakeholder and community relations.

RECOMMENDATION 210:
Suncorp Management Advisory Committee

Status quo.

9. Brokering Balance: A future perspective

The *scope* of this Review is significant with-

- 459 (out of a total of 510) government bodies within the scope of this Review;
- bodies under review covering approximately 20% of the State's revenue and expenditure; and
- bodies representing the full gamut of functions \times impact \times budget \times autonomy \times governance permutations ranging for example from those with significant budgets and functions with State-wide impact to those with no budgets but significant local impact, from the contentious to the not so contentious.

The extent of *change* that is recommended is significant with-

- 188 bodies to be abolished (including either complete abolition, or cases where the functions of the bodies would transfer to a State government department or to local government);
- 11 bodies to be merged with other entities;
- 116 bodies for which change is pending (including upon completion of specified function/tasks; or subject to a sunset clause or further review; or for bodies that are subject to national schemes or other reform); and
- 19 bodies for which either conversion into a non-Government organisation, or selling off, is proposed.

That is, change is recommended for 334 of the 459 government bodies under review.

There is also the change overlay in governance terms that is proposed by the *Public Interest Map*, principally through the Good Governance Framework.

This Review has adopted a rigorous review methodology to *get the balance right* in recommending the individual futures for 459²⁸⁸ government bodies and in leaving a template for the future public sector governance of all non-departmental government bodies.

The transition to change methodology and implementation plan will be equally critical.

The Department of the Premier and Cabinet should take a leadership role in implementation of this Review's extensive recommendations, and as champion of the *Public Interest Map* in future public sector governance decisions. This will involve its role on an ongoing basis to assist and advise departments, as well as the Premier and Cabinet.

²⁸⁸ The Government added two additional bodies to the Review list during the audit process in August 2008.

Subject to the Government's approval of the recommended new decision-making model, one of the first round of implementation tasks should include a *Public Interest Map* review on the three additional government bodies²⁸⁹ created since the Review's commencement that were not within review scope. Using the Threshold Test and the Organisational Form Guide – do they need to be created (continued) as separate bodies and do they take the most suitable form?

Other implementation concerns that were beyond the scope of this Review but which should be further developed include-

- criticality of building organisational capability consistently across the sector that is expert in managing positively and constructively the interpersonal dimension of public sector transactions (see Part A Report, pp. 21-23; Part B Report, pp. 17-18); and
- opportunity cost to government and public policy by the myriad of inconsistent departmental governance arrangements by regions across the State (i.e. every department would appear to have different districts or zones for the State used in their systems and reporting) (see Part A Report, p.21; and copied in Part B Report, p. 15).

Reducing bureaucracy and red tape needs to be as dynamic and comprehensive as its subject. The compass of the public interest can mount that challenge. To heed its course will not only improve services to the public but it will honour the enormous and essential contributions made by the thousands of members on government bodies dedicated to public service.

²⁸⁹Queensland Indigenous Education Consultative Committee; SEQ Regional Nature Conservation Strategy Advisory Group; and Board for Urban Places.

Public Interest Map

for Queensland Government Bodies

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Public Interest Map

for Queensland Government Bodies

Figure A.1

Summary Form

Core Premises:

Government Ministers are responsible to Parliament, and ultimately to the electorate, for the operation of all departmental and non-departmental bodies within their portfolio.

A portfolio department is the organisational form of first choice for government.

Delegation, or devolution of public power should be unambiguous, transparent, granted and exercised in the public interest, accountable, and subject to review.

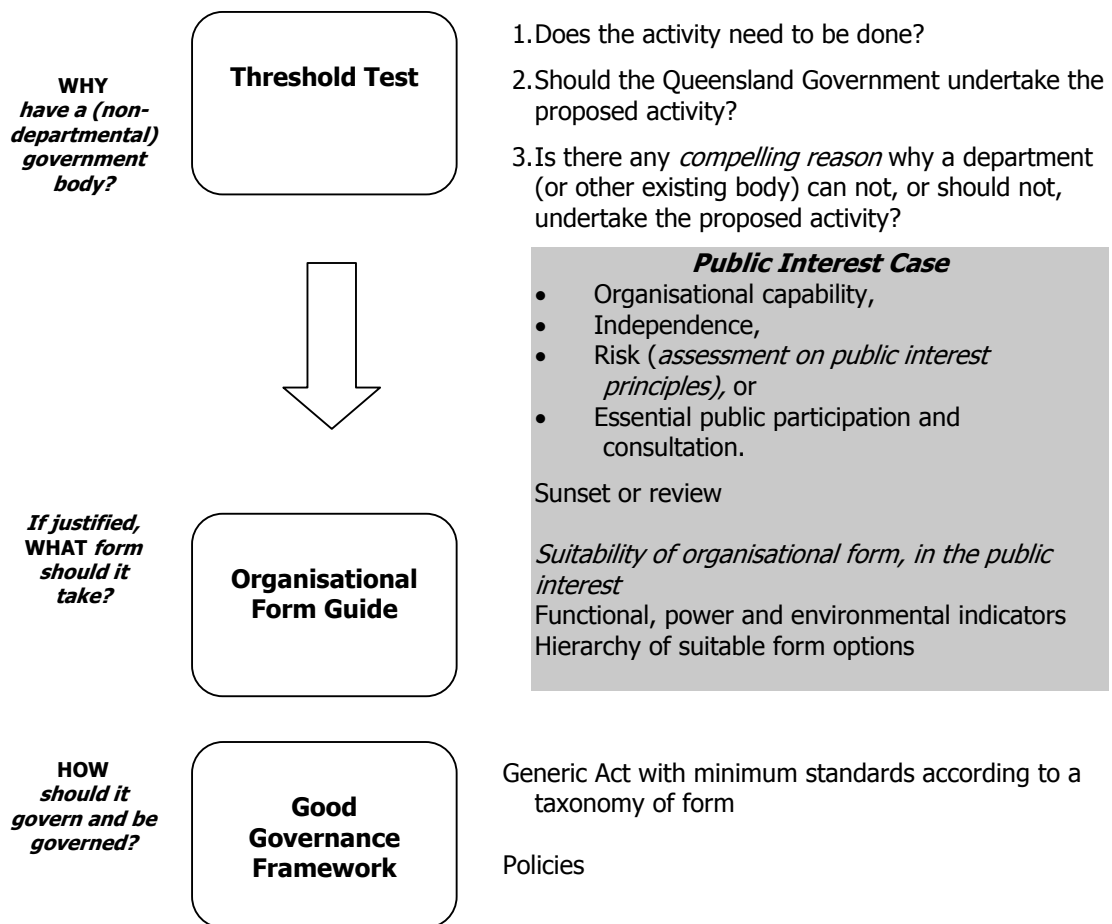


Figure A.2 *Public Interest Map for Queensland Government Bodies* *Concept Form*

	CONCERNS	IN ISSUE	REVIEW RESPONSE	ELEMENTS	REASONS <i>Outcomes in the public interest</i>
WHY do it?	<p>Distributed public governance, fears of-</p> <ul style="list-style-type: none"> • Bureaucracy • Red tape • Loss of power/control • Relevance 	<p>Creation/ continued existence</p>	<div style="border: 1px solid black; border-radius: 15px; padding: 10px; text-align: center; width: fit-content; margin: 0 auto;"> <p>Threshold Test</p> </div> <div style="text-align: center; margin: 10px 0;"> </div>	<p>Three threshold questions:</p> <ul style="list-style-type: none"> • Is there a need for it? • Should government do it? • Why not a department? <p>Public Interest Case (four threshold criteria:</p> <ul style="list-style-type: none"> • Organisational capability; • Independence; • Risk; or • Essential public participation and consultation) <p>Sunset or review</p>	<p>Delegation or devolution of public power in appropriate and consistent circumstances</p> <p>The right <i>number</i> of bodies outside core government departments</p>
WHAT should do it?	<p>Fragmented public sector with some wrong structures. Perceptions of-</p> <ul style="list-style-type: none"> • a law unto themselves • too many companies 	<p>Independence and ministerial responsibility</p>	<div style="border: 1px solid black; border-radius: 15px; padding: 10px; text-align: center; width: fit-content; margin: 0 auto;"> <p>Organisational Form Guide</p> </div>	<p>Suitability guide where form follows function (and power), includes hierarchy of acceptable form</p>	<p>Form fit for purpose</p> <p>Enhanced ministerial responsibility</p>
HOW should it be done?	<p>Economy Efficiency Effectiveness</p>	<p>Performance and accountability Value</p>	<div style="border: 1px solid black; border-radius: 15px; padding: 10px; text-align: center; width: fit-content; margin: 0 auto;"> <p>Good Governance Framework</p> </div>	<p>Internal & external: Generic Act with minimum standards according to taxonomy of form Policies</p>	<p>Certainty <i>de minima</i> Consistency and rigour Clarity Integrity and diligence</p>

Public Interest Map

For Queensland Government Bodies

Long Form

Government Ministers are responsible to Parliament, and ultimately to the electorate, for the operation of all departmental and non-departmental bodies within their portfolio.

A portfolio department is the organisational form of first choice for government.

Delegation, or devolution of public power should be unambiguous, transparent, granted and exercised in the public interest, accountable, and subject to review.

- | | |
|---|----------------------------------|
| 1. why have a (non-departmental) government body? | Threshold Test |
| 2. if justified, what form should it take? | Organisational Form Guide |
| 3. how should it govern and be governed? | Good Governance Framework |

1. Threshold Test

Why have a (non-departmental) government body?

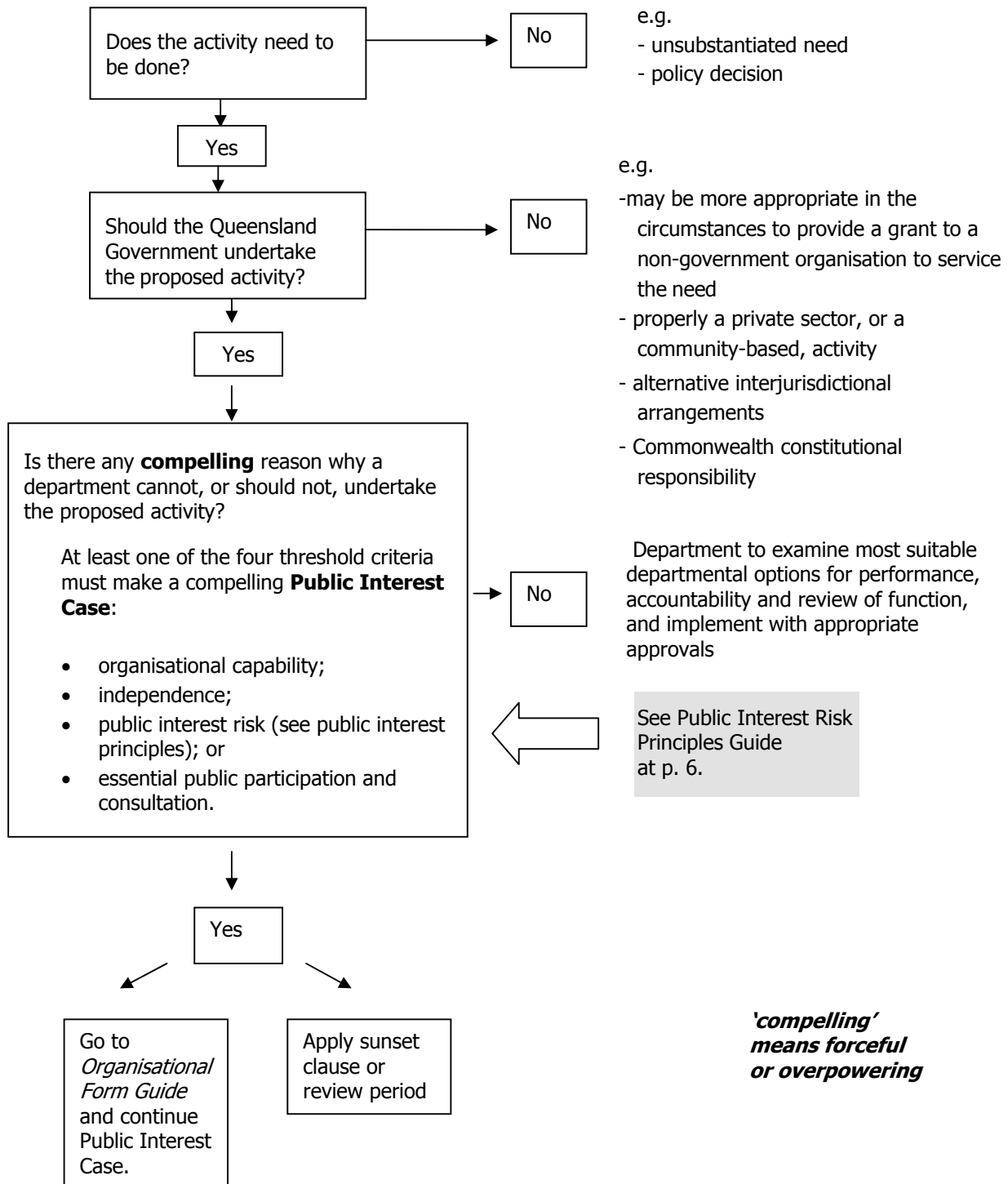
Application of the Threshold Test (on p.4) should avoid the following possible causes of excess bureaucracy and red tape, where-

- there is **no, or insufficient, business case** to justify a body's existence;
- valid reasons for the creation of additional bodies **lost their contemporary relevance or weight** due to-
 - changed circumstances of need, environment, or
 - better alternatives arising.
 Or, simply, the initial charter has been completed;
- the body is **not financially sustainable**;
- there is **jurisdictional overlap or duplication of functions**; or
- **political circumstances** (for patronage or cosmetic reasons) create bodies.

Figure A.3

Threshold Test

Where a 'no' answer will *not* justify the creation (or continuation) of a non-departmental (Queensland) government body:



Public Interest Case

The Public Interest Case for creating (or continuing) a non-departmental government body should identify the role, responsibilities, risk and accountability profile for the proposed body, a sunset clause or regular review period, and answer:

- Is there any *compelling* reason why a department cannot, or should not, undertake the proposed activity? (third Threshold Test question)
- What is the most suitable non-departmental government form, in the public interest? (Organisational Form Guide – see pp. 9-12)

Threshold criteria

At least one of the threshold criteria must be satisfied as a compelling case to override the premise that a department is the organisational form of first choice:

1. *Organisational capability*

It is not possible or reasonably feasible for a departmental body (or another body already in existence) to undertake the proposed new activity (functions or powers) or achieve the desired outcomes.

This threshold includes where there has been interjurisdictional agreement to undertake an activity through a non-departmental form; a Public Private Partnership; or a multiple ownership arrangement.

Consider whether granting specific delegations or exemptions might reasonably facilitate departmental capability.

This criterion does not exclude a poor performing department. In that scenario the capability concern is one of performance, not organisational form.

2. *Independence*

The nature and extent of actual or perceived independence in order to undertake the activity is beyond that which the department, or any alternative arrangements with the department, can provide.

Activity of a regulatory or an independent statutory nature does not necessarily preclude a contemporary departmental structure and governance arrangements.

3. *Public Interest Risk*

There would be an unacceptable risk to the State if the activity were to be undertaken by a departmental entity or another existing body.

4. *Essential public participation and consultation*

This advantage needs to be essential and superior as tested against contemporary alternatives in relevant community engagement practices and consultation mechanisms. That is, can access to government and seeking stakeholders' views be achieved similarly by another way or through another entity?

The Public Interest Case risk assessment should consider at least the following public interest principles.

Figure A.4

Public Interest Risk Principles Guide

<u>Principles:</u>	<u>Considerations, include:</u>
Accountability	<ul style="list-style-type: none"> ▪ Clarity of roles and objectives ▪ Collective Ministerial responsibility + political control for accountability - dysfunctional behavioural risks ▪ Transparency and availability of information ▪ Sufficient funds to sustain governance costs ▪ External scrutiny ▪ Increased scrutiny of government reduces need for 'arm's length' arrangements ▪ Meaningful performance measures possible
Economy	<ul style="list-style-type: none"> ▪ Financial sustainability of the non-departmental entity's operations ▪ Can additional costs be justified? ▪ Financial consequences of organisational form ▪ Is there another existing body more suitable? ▪ Relevance of benefits from economies of specialisation vs economies of scale
Efficiency	<ul style="list-style-type: none"> ▪ Overlap or duplication with departments or other relevant bodies ▪ Flexibility to anticipate and respond to emerging needs/changing markets ▪ Competitive neutrality <p>[Avoiding the 'burden' of compliance with governance and accountability mechanisms in legislation and policies is <i>not</i> efficiency nor is it in the public interest]</p>
Effectiveness	<ul style="list-style-type: none"> ▪ Extent to which autonomy is necessary (e.g. to attract and retain independent expertise; or hold confidence and trust of stakeholders, in order to perform the proposed role) ▪ Value for money ▪ Better customer service ▪ Achievement of specific government objectives ▪ Extent to which public participation in government activity or access to government decision-making is enabled in essential and superior terms compared with the alternative mechanisms available
Relevance	<ul style="list-style-type: none"> ▪ Responsiveness ▪ Market failure context ▪ Quasi-fiscal activities, such as risks associated with borrowing money or in delivery of large projects (include overall risk to State (constructive risks)) ▪ Access to government decision-making

These public interest principles will also support the choice of suitable non-departmental form in applying the Organisational Form Guide if the Threshold Test is first met and the Public Interest Case continues.

Sunset or Review

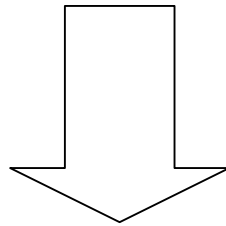
All government bodies should be subject to either a sunset clause (a provision for the expiry of the government body) or regular review at appropriate periods.

The initial Public Interest Case process can determine-

- the application and timing of a sunset clause;
- the application and timing of a sunset clause that is conditional on a prior review confirming that expiry of the body is appropriate; or
- the appropriate period for regular review for the circumstances of the body.

Considerations that should factor into decisions on appropriate review periods include the size of the body and its resources, the nature of its business, opportunities to review prior to the expiry of key governing appointments, and the probability and consequences of adverse risks to the public interest if the body (or its activities) could not be justified.

The *Public Interest Map* should be re-applied on review of a body or included in an alternative, more intensive strategic or efficiency review undertaken for another purpose.



If the Threshold Test is met-

the Public Interest Case continues to determine suitable non-departmental form.

2. Organisational Form Guide

What form should it take?

Private sector models of form and corporate governance are not necessarily superior to public sector models.

Particular functions or structures may not be necessary, or appropriate, on an indefinite basis.

Application of the Organisational Form Guide (on pp. 9-12) should avoid the following possible causes of excess bureaucracy and red tape, where-

- there is **no, or insufficient, business case** to justify the body's form;

- valid reasons for the form of body have **lost their contemporary relevance or weight** due to-
 - changed circumstances of need, environment, or
 - better alternatives arising; and
- the organisational form is **not fit for purpose** or the most suitable, which compromises the economy, efficiency and effectiveness of the body.

The Organisational Form Guide determines the most suitable form to follow function; and observes the preferred hierarchy of form which has-

- least delegated or devolved power (commensurate with fulfilling objective and function);
- typically least risk; and
- enhanced ministerial responsibility.

Figure A.5

Organisational Form Guide

<i>Functional Indicators¹</i>	<i>Form Options (order of preference)</i>
<p>Commercial/Trading</p> <ul style="list-style-type: none"> ▪ Engaged in commercial activities ▪ Has own control of funds ▪ Different forms according to risk and level of independence required on a public interest assessment (i.e. not just on a presumption or precedent that a commercial activity requires a private sector company and board model) <p>[With or without a board – See Board Model Indicator, p. 12] For CBU's – suitable for delivery of services <i>to government</i> see assessment per approved SDPC recommendations For Companies – see 3 stage approval process in <i>Guidelines for the Formation, Acquisition and Post Approval Monitoring of Companies</i> and note that a company structure should only be used as a last resort For SPVs – see <i>Special Purpose Vehicle Governance Framework and Guidelines</i></p>	<ol style="list-style-type: none"> 1. CBU's 2. Statutory Authority 3. Statutory Body 4. Corporation Sole 5. Company (and SPVs) 6. GOC
<p>Governing</p> <ul style="list-style-type: none"> ▪ (Typically, a board to) oversight and govern the operation of an agency at arm's length from government department ▪ Choice of form according to the need to control funds for the operation of the agency <p>[With or without a board – See Board Model Indicator, p. 12]</p>	<ol style="list-style-type: none"> 1. Statutory Authority 2. Statutory Body

¹ Category descriptions adapted from Department of the Premier and Cabinet, *Welcome Aboard: A Guide for Members of Queensland Government Boards, Committees and Statutory Authorities*, July 2002.

<p>Policy/Review/Specialist</p> <ul style="list-style-type: none"> ▪ State level with a policy or coordination role, or ▪ A review role, or ▪ Expertise with a specialist, scientific or research role <p>[Statutory authority with or without a board - See Board Model Indicator, p. 12]</p>	<p>1. Committee or advisory council</p> <p>2. Statutory Authority</p>
<p>Regulatory/Registration/Appeal</p> <ul style="list-style-type: none"> ▪ Regulatory or registration role to determine standards, monitor and regulate practice, or grant licences ▪ Quasi-judicial, complaints or appeals role to investigate complaints, review decisions and make judgments <p><u>Regulatory/Registration</u> [With or without a board but depending on the nature of the role and extent of its powers, in many instances a board would not have an effective role and would be surplus to governance requirements- See Board Model Indicator, p. 12]</p> <p><u>Appeal</u> - [No board]</p>	<p>1. Statutory Authority</p> <p>2. Statutory Body</p>
<p>Trustee</p> <ul style="list-style-type: none"> ▪ A board to manage a public trust account to quarantine monies from other operating funds ▪ Expert, community or peer judgment independent of government is critical but within defined parameters for the benefit of trust beneficiaries ▪ For exceptional cases where- <ul style="list-style-type: none"> ○ public donations are to be received for a specific charitable purpose and are tax deductible; and ○ beneficiaries are publicly regarded as vulnerable and whose interests must be protected financially via a trust account. <p>A statutory trust (statutory body) is preferred over a common law trust which should be of last resort. A statutory authority is first choice² if an independent board is required and funds can be quarantined by-</p> <ul style="list-style-type: none"> ○ recording funds within the main operational bank account (in a different cost-centre and reconciled separately), or ○ creating a separate trust bank account (separate from the departmental bank account – suffices for holding 'in trust' for a third party or for a legally required specific purpose) 	<p>1. Statutory Authority</p> <p>2. Statutory Body</p> <p>3. Trust</p>
<p>Advisory/Consultative</p> <ul style="list-style-type: none"> ▪ Provide greater stakeholder and/or community access, or more equitable access, to government decision-making for advice and recommendations to ministers and agencies on policies, plans and practices or issues referred for comment ▪ Provide specialist or expert advice on specified tasks ▪ Committees enable coordination within and across portfolios to facilitate policies, plans or projects <p>'Council' reserved for a peak body formal relationship with an established policy community</p> <p>Regular review of ongoing relevance and representative nature of membership and advisory/consultation mechanisms. Revisit Threshold Test for creation of body against contemporary public administration practices and community engagement endeavour</p>	<p>1. Committee or advisory council</p>

² Note: A compelling case has already justified a non-departmental form (despite no need for a statutory authority for a department to quarantine monies 'in trust' this way).

Powers and Environmental Indicators						
Indicator	Committees/ Councils	Statutory Authorities	Statutory Bodies	Trusts	Corporation Sole	Companies
(Typical) reasons for creation	Advice on specific areas of interest	Independent oversight of certain functions	Flexibility and independence. Controls own funds	Trust account for quarantining monies from other operating funds	Authority is vested in one nominated office holder, rather than a board	Commercial focus, competitive environment, spread of control, able to be sold
Needs own enabling legislation	Not usually	Yes	Yes	Depends on form ³	Yes	No
Separate legal entity	No, legally part of department, statutory authority or statutory body	Yes (but for reporting purposes part of department or statutory body)	Yes	Depends on the type of trust ⁴	Yes	Yes
Appointment authority	Usually CEO or Minister ⁵	Governor in Council or Minister	Governor in Council or Minister	Depends – CEO or check enabling legislation	Governor in Council or Minister	Refer to company constitution
Can it be a 'trading' body	No	Yes – depends on their purpose	Yes	Depends on the type of trust – e.g. if it holds property it may carry out a rental activity	Yes	Yes
Does FAAA and SBFA apply ⁶	Yes, same as their parent entity	Yes – FAAA only	Yes – FAAA and SBFA	Yes – SBFA to statutory body as trustee. FAAA to department that set up trust	Depends on enabling legislation (accounts as a statutory body or as a department)	No ⁷

³ Refer to the *Trust Act 1973*, *Trustee Companies Act 1968*, and *Trust Accounts Act 1973* to determine between trust accounts where money is held in trust for an external person/entity and an entity set up to operate as a trust investment facility.

⁴ A trust can be a separate legal entity; however, it would be the trustee who would be sued as they are responsible for running the trust.

⁵ See recommendation 2.2, and Part B Report, p. 36.

⁶ *Financial Administration and Audit Act 1977* and *Statutory Bodies Financial Arrangements Act 1982*

⁷ 'equivalent governance and accountability frameworks' are to be expected as apply to departmental agencies: Queensland Treasury, *Guidelines for the Formation, Acquisition and Post Approval Monitoring of Companies*, September 2005, p. ii (Under-Treasurer's Foreword).

Board, or no board

Adoption of a board model within the organisational form is not to be presumed, but is to be contested and justified. Can a board add value? First, consider the role and functions of the *body* and the environment or market in which that body is to operate. Second, consider the risks and opportunities, then the roles that a *board* could perform and the extent to which those roles are likely to impact positively on those risks and opportunities. Board roles offer both performance and an independent check and balance. Also, an internal and external focus should be applied.

Figure A.6

Board Model Indicator

Indicators of board model value for a specific body	1 (low)	2 (moderate)	3 (high)
Value of public assets over which the body has control, or the size of its (potential) revenue base, or its capacity to expend funds or incur liabilities			
Extent of (public) power and responsibilities granted to the body			
Risk profile (probability and consequence) of the body not fulfilling its objectives/performing its functions (e.g. essential services of water, electricity would be level 3 (high))			
Complexity of the body's mission			
Need for autonomy and independence in the exercise of functions or decisions made by the body (NB. independence is granted by virtue of separate form and extent of powers, board's influence is as protector and advocate for that autonomy and independence)			
Correlation/suitability of proposed board powers with expectations of board role			
Contentious nature of the body's functions, or the extent of discord among stakeholders			
Extent to which a strategic focus is required to achieve the body's objectives (e.g. a compliance regulator with certainty of requirements and measures, little discretion: 1 (low))			
Extent of incapacity or inappropriateness for a responsible Minister or associated portfolio department to receive direct report from executive management alone.			
Need for quality and quantity of specialist or expert judgment, or a diverse range of perspectives and experience, to be available in the stewardship of a body's mission			
Extent to which networking can legitimately promote achievement of organisational goals (e.g. creative or innovative industries where ideas or cross-leveraging advantages can be born or fostered with broader contacts)			

Notes:

- The higher the need/extent indicated, the greater the need for a board model.
- Indicators are broadly in order of criticality (although a case by case examination of a body may weight them differently).
- Board Model Indicator is not prescriptive, rather it is a tool to guide the consideration of the Public Interest Case in determining whether suitability of organisational form requires a board.

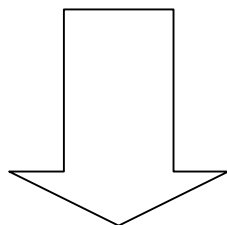
Public Interest Case Process

The Public Interest Case is to be endorsed by the portfolio Minister and Treasurer, and approved by the Premier, except the Treasurer's endorsement is not required in respect of the creation of advisory bodies that do not require Cabinet approval.

The Public Interest Case endorsement and approval should be incorporated into existing requirements (such as the Cabinet Submission process).

However, before seeking the Premier's approval, the sponsoring Department must forward an advance copy of the Public Interest Case to the Department of the Premier and Cabinet and consult with the Cabinet Legislation and Liaison Officer network to ensure no duplication with existing bodies. This may also be done as part of existing Cabinet Submission process, where applicable. Otherwise, electronic consultation with the Department of the Premier and Cabinet and the Cabinet Legislation and Liaison Officer network (specify deadline for concerns) will suffice.

As the Public Interest Case is a *principles-based* approach to the consideration of whether a non-departmental body should be created (or continued), the detailed or 'short form' nature of a Public Interest Case submission should correspond to the nature and extent of the body in question in order to be persuasive of its merits, on public interest grounds. Where a body appears at the low end of the spectrum of function, autonomy and form (low degree of risk and low degree of delegated/devolved power) with low if any funding and no remuneration for members, a short form assessment would be entirely appropriate, unless and until the review process required more information in order to be persuasive of its merits.



If the Public Interest Case is made—

the Good Governance Framework applies to the new (continued) body.

3. Good Governance Framework

How should it govern and be governed?

Delegation or devolution of public power should be unambiguous, transparent, granted and exercised in the public interest, accountable, and subject to review.

Similarly, expenditure of public funds should be clearly and transparently authorised, accountable, and subject to scrutiny and probity.

Clarity and transparency supports good governance, which provides for accountability, and leads to good performance *outcomes*.

Private sector models of corporate governance are not necessarily superior to public sector governance models.

There should be functional necessity and regulatory integrity observing minimisation of administrative process, compliance costs and regulatory impact.

Application of the Good Governance Framework should avoid the following possible causes of excess bureaucracy and red tape, where-

- there is **jurisdictional overlap or duplication of functions**;
- there is **duplication of effort** across agencies in performing their respective functions or there are **inconsistent systems and processes** across like function by various bodies and department;
- the applicability of **existing rules or controls are unclear** or they are **not followed correctly** resulting in either wasted effort or non-performance (then damage-control measures), or additional rules or controls being implemented.

Good Governance Framework

The Good Governance Framework provides a generic *legislative* and *policy* framework for the good governance of *all* non-departmental government bodies (excluding Government-Owned Corporations (GOCs) under the *Government Owned Corporations Act 1993*).

Legislative

A generic Government Bodies Act would provide a common and certain set of *minimum* standards, processes and responsibilities for the external and internal governance of –

- committees/councils
- statutory authorities
- statutory bodies
- trusts
- corporations sole
- companies (excluding GOCs).

The objective for a generic legislative framework is not to encumber all bodies regardless of their different categories with the same standards. It is not to impose a 'one size fits all' regime. Rather, the aim is for suitable flexibility across specified categories but *within* a category there would be a clear, consistent, visible and readily accessible *minimum* governance framework (that covers more than financial governance arrangements and is proportionately scaled to size, autonomy, powers and risks).

Moreover, as the standards in the generic model are *de minima*, government bodies may adopt higher standards if they choose. Consistent with prevailing Australian principles, governing boards ought to still consider and adopt governance standards suitable to their body – but they would need to at least meet the statutory minimum.

If the standards set in the Act establishing the body are higher than the minimum standards set in the generic Act, then the higher standards in the establishing legislation would prevail. The Review's recommended generic Act would not override existing governance arrangements for government bodies unless those arrangements were to a lesser standard than those of the generic legislation.⁸

The Government Bodies Act should include provision for at least⁹-

- Core public sector governance principles¹⁰
(sets a values-premise for governance of all non-departmental bodies)
 - Transparency;
 - Accountability;
 - Integrity (acting with integrity also requires resolution of potential and actual conflicts of interest with selflessness and objectivity in the public interest.);
 - due diligence (correlates to acting 'in the public interest' which means in accordance with the law and policy objectives of the elected government, under the direction of the responsible minister – and in this context, as delimited by the *Government Bodies Act*.); and
 - economy, efficiency and effectiveness.
- Categorisation of available non-departmental bodies
 - committees or advisory councils;
 - statutory authorities;
 - statutory bodies;
 - trusts;
 - corporation sole; and
 - companies (excluding government owned corporations established under the *Government Owned Corporations Act 1993*; and constitutionally consistent with the *Corporations Act 2001 (Cth)*).
- Outline procedure for creation and removal of the different categories of body.

⁸ This interaction with other governance standards is the approach adopted by the *Public Administration Act 2004* (Vic) (and as reported in Bini, M., 'The Public Administration Act 2004 (Vic): A new approach to the liability and duties of directors on government boards and authorities', *Company and Securities Law Journal*, Vol. 26, 2008, p. 184).

⁹ *De minima* drawn from sources and analysis including: OECD 2002, p.271; Edwards & Clough 2005; *Public Administration Act 2004* (Vic); Bini, M., 'The Public Administration Act 2004 (Vic): A new approach to the liability and duties of directors on government boards and authorities', *Company and Securities Law Journal*, Vol. 26, 2008; *Crown Entities Act 2004* (NZ).

¹⁰ The principles may form the objects clause. Corporations Law copes with prescribing similar concepts. The following became individual duties *to act* in New Zealand's legislation: duty to act with honesty and integrity, in good faith and not at expense of entity's interests, with reasonable care, diligence, and skill.

- Definition of functions and powers of the different categories of body. Address the nature and extent of independence, monitoring and control mechanisms, power to subject category of body to specified government policies, and expectations of communication and information exchanges (e.g ministerial directives in writing), powers of delegation. Functions and powers are the principal determinant on whether a board would be required.

Special provision should be made to accommodate the special governance arrangements to which Universities are subject.

Government-owned companies should have equivalent governance requirements to company GOCs

- Powers and duties of office holders.
(include an obligation on members to be aware of relevant government policy, and their additional responsibilities as a member of a board of a public sector entity including the concept of 'public interest' and how it should be considered by the board in its deliberations and decisions.)
- Clarity of respective roles (roles of board, members and responsible minister must be clear (see Part A Report, pp. 33-40).
 - New Zealand's generic legislation holds board members accountable to the responsible minister for the performance of their duties as members.¹¹ Victoria's generic legislation is the 'first and only provision in Australia which clearly states that the board of a public entity is accountable to the minister and the minister to Parliament'.¹²
 - Clarity on the Minister's role in setting the direction or objects of the body.
 - Set the minimum requirements (and purpose) of Charters, Statements of Expectations, Statements of Intent, Shareholding Agreements and when they may be relevant as tools in achieving clarity, transparency and understanding of respective roles. Ensure there are no conflicting instructions. Make accountability requirements explicit. The most effective combination of these statements of roles and obligations depends on the body's objectives, business, operating environment and relevant legislation.
 - Ensure provision is covered to clarify that direct contact between the Minister and the body's chief executive is not appropriate,¹³ but although reasonable access to the Minister is expected, direct contact can be made on either initiative between the Chair and the Director-General (chief executive of portfolio department), and the Director-General and the Chief Executive as may be appropriate within the frame of their respective roles statements, and recognising that the Director-General may be more available to the Board in the first instance than the Minister, and holds a chief advisory role

¹¹ *Crown Entities Act 2004* (NZ), s.26.

¹² Bini, M., 'The Public Administration Act 2004 (Vic): A new approach to the liability and duties of directors on government boards and authorities', *Company and Securities Law Journal*, Vol. 26, 2008, p. 183. Note Bini's consideration of any potential legal liability of ministers as 'shadow directors' resulting from Victoria's extended provision at pp.188-190.

¹³ Risks involved in excluding board/chair, see Part A Report, p. 27.

to the Minister. There should be provision to require the nature and extent of the Director-General's role in respect of each body to be defined on the case by case basis but at the outset.

- **Role of Parliament.**
Specific consideration for the role of Parliament in overseeing activities of public bodies through ministers (e.g. tabling of ministerial directives within a specified timeframe or in the annual report; tabling a list of all non-departmental government bodies by portfolio ministers annually; a requirement for all public sector bodies to report annually to the Parliament such that government-owned companies would be required for the first time to provide annual reports to their responsible minister for tabling¹⁴).
- **Liabilities and indemnities.**
- **Process and criteria for appointment and removal of chief executive and board members, where applicable.**
For boards for example, include a skills audit process with each new appointment that accounts for board objectives; any generic requirements for board size and composition,¹⁵ terms of appointment, and no compensation for loss of office.
- **Nature and extent of agreements with or directives from government departments and responsible portfolio minister.**
A whole of government direction could provide an opportunity to achieve economies of scale, or pursue a whole of government policy initiative (e.g. improving operating standards or service delivery, e-government requirements, or requirements of purchasing or tendering)¹⁶
- **Financial management.**
The *Statutory Bodies Financial Arrangements Act 1982* should be repealed with its provisions incorporated into the new Government Bodies Act. Inconsistencies in the meaning of statutory bodies between the *Statutory Bodies Financial Arrangements Act 1982* and the *Financial Administration and Audit Act 1977* (and its successor) should be removed. Otherwise, there should be a cross-reference (noting) in the Government Bodies Act to the *Financial Administration and Audit Act 1977* (or its successor).
- **Risk management (including non-financial risks) and reporting.**
- **Performance planning, reporting and evaluation.**

¹⁴ Existing arrangements for reporting by entities such as committees and statutory authorities where these may be included in their parent entities' annual reports can continue.

¹⁵ In Edwards & Clough 2005, p.9: 'Eight directors are cited as the upper limit and 6.6 as the mean board size in a study by Kiel and Nicholson. (2003:194). In another study, eight is described as 'typical' (Larker et al., 2004:7), while Leblanc and Gillies note that eight to eleven is viewed as optimal (2004:5). Uhrig reports that six to nine is current good practice in the private sector (2003:96) but goes on to suggest that optimal board size in the public sector may differ from one organisation to another.'

¹⁶ Bini, M., 'The Public Administration Act 2004 (Vic): A new approach to the liability and duties of directors on government boards and authorities', *Company and Securities Law Journal*, Vol. 26, 2008, p. 185.

(include requirement for regular evaluation of board performance).¹⁷

- Subcommittees and subsidiaries.
The powers or constraints on forming subcommittees should be specified.
Creation of subsidiary companies should require prior shareholders' (owners') majority approval.
- Conflict of Interest disclosure rules.¹⁸
Include consistency with availability of Integrity Commissioner under the *Public Sector Ethics Act 1994*.
- Board remuneration
Should be set by Government (not the Board) as the Board is fundamentally conflicted in making such decision to remunerate its members. (Supporting policy sets assessment process guidelines and remuneration levels).
- Employment of staff.
Except where a business case can be made with the approval of the responsible Minister, employment of staff in non-departmental bodies should be governed by the *Public Service Act 2008* (or tied equivalent to it).

A policy under the Good Governance Framework should be developed to guide the business case consideration for approval of staff remuneration entitlements outside the *Public Service Act 2008* and provide any remuneration policy considerations for that approved body.

Development of that policy should consider the public interest requirements of propriety and accountability in the expenditure of public funds balanced with the commercial needs of the body in a competitive (but ever-changing) market of supply and demand of skilled and quality staff. A number of remuneration paradigms currently debated in the context of the global economic market offer strategies for public sector control of commercially competitive remuneration where the entity has received government funding. Those strategies that should be considered range from government placing an outside salary cap on executive remuneration¹⁹ through to the national debate on whether shareholders of companies should approve salaries and bonuses²⁰ (i.e. in this context, whether Government can veto the board's recommended executive remuneration packages). At the very least, the remuneration policy could consider salary reviews scaled to market for open positions.

¹⁷ See its role as a 'soft' governance in high performing boards, Part A Report, p. 26.

¹⁸ See for e.g. *Crown Entities Act 2004* (NZ), ss.62-72.

¹⁹ US President Obama's \$US500,000 salary cap on companies receiving federal bailout,: Landers, K., 'Obama orders salary cap for bailout firms', *ABC News Australia*, 5 February 2009, <<http://www.abc.net.au/news/stories/2009/02/05/2482690.htm>>.

²⁰ The Australian Prime Minister has referred the issue of performance-based incentives to the Australian Prudential Regulation Authority for report, expected by July 2009: Norington, B., 'No capping of executive pay', *The Australian*, 6 February 2009, <<http://www.theaustralian.news.com.au/story/0,25197,25014834-5013871,00.html>>.

There is governance value in determining the respective roles of who is to set the remuneration (board, chief executive, any role for (or notice to) the Minister), how the salary is to be assessed, and any control parameters and expectations of performance and accountability given the public sector power to remunerate with public monies will have been otherwise fully delegated to the entity.

- Requirements for a Code of Conduct
A code of conduct should encourage high standards of behaviour and leadership (and an organisational culture reflecting desired values), which are the 'soft' governance elements that research has shown to be critical in the effective interplay with 'hard' governance elements for good governance. This code should include for government bodies for example, a coinciding ethical obligation of economy and efficiency which imposes a financial management obligation to ensure that resources are expended efficiently and appropriately. Codes of conduct and complementary policy material like financial management practice manuals reinforce government and community expectations of financial probity and, simply, that public funds are not to be, or be perceived to be expended lavishly. Particularly for government bodies operating in commercially competitive markets, a code of conduct can assist in managing conflicts of interest concerning expenditure on, and receipt of gifts, corporate hospitality and entertainment.

When a public servant is appointed to a board, the board's code of conduct should outline ethical obligations and strategies relevant in supporting the public servant, chair, and board in resolving any conflicts of interest or perceived conflicts of interest arising from the prospect of the public servant wearing 'two hats'.

Non-legislative

Common *de minima* in a single Act would be supported by a **policy framework** that addresses in appropriate detail the various procedural and policy elements of the threshold test for creation of a new body and review of existing bodies, the organisational form guide, and supplementary guidance for the good governance framework.

Existing and revised policies as required would also complement the new governance decision-making model for Queensland government non-departmental bodies. Those policies and documents include-

- Financial Reporting Requirements and the Non-current Asset Policies for the Queensland Public Sector(issued by Treasury);
- Remuneration of Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities (issued by the Department of Employment and Industrial Relations) – for the objectives of process minimisation and avoidance of duplicated effort (efficiency and red tape), the Guideline's scoping and assessment process for a body's characteristics, intensity/complexity, impact on government and geographical/industry/community coverage should be

appropriately integrated and coordinated (consistent) with the Organisational Form Guide and related business case for creation and review of bodies.

- Annual Report Guidelines (issued by the Department of the Premier and Cabinet);
- Public Sector Performance Management Framework;
- Guidelines for Managing Conflicts of Interests for Statutory Office Holders (issued by the Department of the Premier and Cabinet). Revise or repeal in light of new legislative provisions for conflict of interest disclosure rules in proposed generic Act;
- State Procurement Policy (issued by the Queensland Government Chief Procurement Office);
- Leasing in the Queensland Public Sector – Policy Guidelines (issued by Treasury);
- Guidelines for the Formation, Acquisition and Post-approval Monitoring of Companies (issued by Treasury);
- Commercialisation of Government Service Functions in Queensland (Policy Framework) (issued by Treasury);
- Guidelines for the grant of indemnities and legal assistance to state employees (issued by the Office of the Public Service Commissioner);
- The Queensland Cabinet Handbook – within Section 5.1.7 - Appointment of Public Servants to Government Bodies; Appointment of office holders and Appointment of persons (Also, set a policy preference for public servants on boards as directors rather than as observers (see Part B Report, pp. 55-57);
- Governance Framework for Infrastructure Delivery Special Purpose Vehicles (issued by the Department of Infrastructure and Planning);
- The Queensland Cabinet Handbook (issued by the Department of the Premier and Cabinet); and
- Welcome Aboard: A Guide for Members of Queensland Government Boards, Committees and Statutory Authorities (issued by the Department of the Premier and Cabinet) (revise for public servants on boards see Part B Report, pp.55-57).

The following also provide governance guidance and support-

- Queensland Auditor-General's *Better Practice Guides* and *Checklists*;
- ASX Corporate Governance Council (2007), *Corporate Governance Principles and Recommendations* (2nd ed.);
- Standards Australia (2003), *Good Governance Principles*, Australian Standard 8000-2003;

- OECD (2004) Principles of Corporate Governance; and
- Australian National Audit Office (2003) Principles of Public Sector Governance.

These policies and guidance should be incorporated into a 'one stop shop' policy manual which is set out consistently with the architecture of the Government Bodies Act. There should be a separate manual for each of the six organisational forms. This will ensure consistency, ease of use, and identification of policy gaps requiring attention. This approach will provide a comprehensive, transparent, readily accessible Policy Framework for the good governance of all Queensland Government non-departmental bodies.

RECOMMENDATIONS FOR CHANGE TO CURRENT BODIES CAPTURED BY THE REVIEW

Abolish

RECOMMENDATION 57: refer to page 94
Agricultural Chemicals Distribution Control Board
Community Consultative Committee for the Control of Exotic Pest Fish
Industrial Hemp Advisory Committee

Abolish.

RECOMMENDATION 59: refer to pages 94 - 95
Animal Valuers Tribunal
Chicken Meat Industry Committee

Abolish.

RECOMMENDATION 190: refer to pages 183 - 187
Health Community Councils (x 37)
Banana Health Community Council
Bayside Health Community Council
Bowen Health Community Council
Bundaberg Health Community Council
Cairns Health Community Council
Cape York Health Community Council
Central Highlands Health Community Council
Central West Health Community Council
Charleville Health Community Council
Charters Towers Health Community Council
Fraser Coast Health Community Council
Gladstone Health Community Council
Gold Coast Health Community Council
Gympie Health Community Council
Innisfail Health Community Council
Logan-Beaudesert Health Community Council
Mackay Health Community Council
Moranbah Health Community Council
Mount Isa Health Community Council
North Burnett Health Community Council
Northern Downs Health Community Council
Princess Alexandra Hospital Health Community Council
Queen Elizabeth II Hospital Health Community Council
Redcliffe-Caboolture Health Community Council

Rockhampton Health Community Council
Roma Health Community Council
Royal Brisbane and Women's Health Community Council
Royal Children's Hospital Health Community Council
South Burnett Health Community Council
Southern Downs Health Community Council
Sunshine Coast Health Community Council
Tablelands Health Community Council
The Prince Charles Hospital Health Community Council
Toowoomba Health Community Council
Torres Strait and Northern Peninsula Health Community Council
Townsville Health Community Council
West Moreton Health Community Council

Abolish.

RECOMMENDATION 113: refer to pages 127 - 128
Board of Professional Engineers of Queensland

Abolish. Maintain current legislative requirements prohibiting persons who are not registered from practising in Queensland using the National Professional Engineers Register and not a duplicative register in Queensland.

RECOMMENDATION 81: refer to pages 104 - 105

Brisbane Forest Park Advisory Planning Board
Macropod Management Advisory Committee
Newry Island Management Advisory Committee
Proserpine Rock Wallaby Recovery Team
Heron Island Management Board
Heron Island Management Committee

Abolish.

RECOMMENDATION 168: refer to pages 166 - 167

Central Queensland Ministerial Regional Community Forum
Darling Downs/Southwest Queensland Ministerial Regional Community Forum
Far North Queensland Ministerial Regional Community Forum
Gold Coast Ministerial Regional Community Forum
Greater Brisbane Ministerial Regional Community Forum
Mackay/Whitsunday Ministerial Regional Community Forum
Moreton Ministerial Regional Community Forum
North Queensland Ministerial Regional Community Forum
Sunshine Coast Ministerial Regional Community Forum
Wide Bay/Burnett Ministerial Regional Community Forum

Abolish.

RECOMMENDATION 65: refer to pages 97 - 98

Crab Management Advisory Committee
Freshwater Fisheries Management Advisory Committee
Gulf of Carpentaria Management Advisory Committee
Harvest Fisheries Management Advisory Committee
Inshore Finfish Management Advisory Committee
Reef Fisheries Management Advisory Committee
Trawl Management Advisory Committee

Abolish, these seven bodies should be merged into one strategic Fisheries Management Advisory Committee, with that body to have the power to establish sub-committees as appropriate for specialised functions. Membership of advisory bodies should not be remunerated (see pp. 38-39 also 3.3.1 Committees and Councils, pp. 32-39).

RECOMMENDATION 5: refer to page 62

Creative Industries Leadership Group

Abolish.

RECOMMENDATION 82: refer to page 105

Coastal Protection Advisory Council
Mackay-Whitsunday Regional Consultative Group

Abolish.

RECOMMENDATION 107: refer to pages 121 - 122

Dalrymple Bay Coal Terminal Holdings Pty Ltd

Dalrymple Bay Coal Terminal Holdings Pty Ltd should be wound up and its functions transferred to the Ports Corporation Queensland as first preference (alternatively, to a department), as contemplated under the *Dalrymple Bay Coal Terminal (Long Service Lease) Act 2001*, subject to legal and accounting advice that provides for the interests of the lessee (and sub-lessees), and addresses any competitive neutrality concerns and any adverse financial implications arising.

RECOMMENDATION 159: refer to pages 161 - 162
Disability Council of Queensland

Status quo, except the advisory body should not be remunerated.

Darling Downs/South West Queensland Regional Disability Council
Far North Queensland Regional Disability Council
Fitzroy/Central West Queensland Regional Disability Council
Gold Coast Regional Disability Council
Greater Brisbane Regional Disability Council
Mackay/Whitsunday Regional Disability Council
Moreton Regional Disability Council
North Queensland Regional Disability Council
Sunshine Coast Regional Disability Council
Wide Bay/Burnett Regional Disability Council

Abolish.

RECOMMENDATION 31: refer to page 75
Employment Agents Advisory Committee

Abolish.

RECOMMENDATION 8: refer to page 63
Fibre Composites Forum

Abolish.

RECOMMENDATION 115: refer to page 129
Gladstone Economic and Industry Development Board

Abolish.

RECOMMENDATION 99: refer to page 114
Land Tribunal (Torres Strait Islander)

Abolish.

RECOMMENDATION 49: refer to page 90
Lower Balonne Ministerial Water Resources Advisory Council and the Queensland Great Artesian Basin Advisory Council

The Lower Balonne Ministerial Water Resources Advisory Council should be abolished when its function of advising on the Condamine and Balonne Water Resources Plan is completed. The Queensland Great Artesian Basin Advisory Council should be abolished forthwith.

RECOMMENDATION 108: refer to pages 122 - 123
Marine Board

Abolish. The *Transport Operations (Marine Safety) Act 1994* should be amended accordingly.

RECOMMENDATION 51: refer to pages 90 - 91
Murray-Darling Basin Commission

The Reviewers note that this body has been abolished during the course of this review.

RECOMMENDATION 173: refer to pages 169 - 170
Queensland Compact Joint Governance Committee

Abolish.

RECOMMENDATION 17: refer to pages 67 - 68
Red Tape Reduction Taskforce

Abolish.

RECOMMENDATION 19: refer to page 68
State Procurement Advisory Council

Abolish.

RECOMMENDATION 187: refer to pages 180 - 181
Training and Employment Recognition Council

Status quo. Legislation would need to be amended to enable the Council to receive formal complaints directly instead of via the Ombudsman.

Training Ombudsman

Abolish.

RECOMMENDATION 56: refer to page 93
Water Infrastructure Project Board

The Reviewers note that this body has ceased to operate.

RECOMMENDATION 21: refer to page 69
Wine Industry Development Strategy Steering Committee

Abolish.

Abolish – transfer department

RECOMMENDATION 125: refer to pages 137 - 138
Appeal Costs Fund Board

Abolish, with the function transferred back into the department. Review rights to the Queensland Civil and Administrative Tribunal should be considered.

RECOMMENDATION 126: refer to page 138
Board of Trustees of the Funeral Benefit Trust Fund

Abolish, with the function transferred back into the department.

RECOMMENDATION 103: refer to pages 118 - 120
City North Infrastructure (CNI) Pty Ltd:

The functions of the City North Infrastructure (CNI) Pty Ltd should be transferred to a suitable departmental form (such as a specific purpose cross-portfolio office or project taskforce dedicated to the same activities and including the appropriate level of Brisbane City Council involvement), subject to an overriding cost-benefit analysis that it would be contrary to the public interest to do so mid-project.

Governance and accountability frameworks should be of the highest standard and a continuing priority in view of the public interest risks attendant the nature and extent of the projects involved.

The entity delivering the CNI functions should be wound up on completion of the specified projects.

RECOMMENDATION 127: **refer to page 138 - 139**
Dispute Resolution Centres Council

Abolish, with the function transferred back into the department, and consequential amendments required to the *Dispute Resolution Centres Act 1990*.

RECOMMENDATION 11: **refer to pages 64 - 65**
ICT Ministerial Advisory Group

Abolish and transfer functions to the Department of Public Works (Government Chief Information Office).

RECOMMENDATION 54: **refer to pages 91 - 92**
Queensland Bulk Water Supply Authority
Queensland Bulk Water Transport Authority (trading as LinkWater)
Queensland Manufactured Water Authority (trading as WaterSecure)
SEQ Water Grid Manager

The four bulk water infrastructure bodies should be abolished and the functions should be transferred into the Department of Natural Resources and Water.

RECOMMENDATION 122: **refer to pages 134 - 135**
Queensland Future Growth Corporation

Subject to any overriding tax or accounting penalty arising from transfer of funds, the corporation sole should be wound up and the functions transferred to Queensland Treasury for quarantining funds from operating funds and for separate account and reporting.

RECOMMENDATION 53: **refer to pages 91 - 92**
Queensland Water Commission

The Queensland Water Commission should be abolished and its functions should be transferred into the Department of Natural Resources and Water.

RECOMMENDATION 92: refer to page 111
Queensland Youth Environment Council

Abolish, with its functions transferred to the Queensland Youth Council.

RECOMMENDATION 40: refer to pages 79 - 81
Tourism Queensland

Transfer functions back to a suitable departmental form within the portfolio department responsible for tourism and abolish the statutory authority.

Abolish – transfer function

RECOMMENDATION 155: refer to page 159
ATSI Appeals Tribunal (Land Holdings)

Abolish, and functions should be transferred to the Land Tribunal with consequential legislative amendments.

RECOMMENDATION 72: refer to pages 100 - 101
Capricornia Regional Electricity Council
Far North Queensland Regional Electricity Council
Mackay Regional Electricity Council
North Queensland Regional Electricity Council
South East Queensland Regional Electricity Council
South West Queensland Regional Electricity Council
Wide Bay-Burnett Regional Electricity Council

Abolition of the seven Regional Electricity Councils as Ministerial appointments. The electricity authorities should be required to develop their own community consultative arrangements in a form that is satisfactory to the Minister.

RECOMMENDATION 63: refer to page 96
Land Protection (Pest and Stock Route Management) Council

Abolish. The pest management advisory responsibilities of the body should be transferred to the Biosecurity Queensland Ministerial Advisory Council, and the stock route management responsibilities of the body should be transferred to the Department of Primary Industries and Fisheries.

RECOMMENDATION 120: refer to page 133
Plumbers and Drainers Board

Abolish, and transfer the functions of the Plumbers and Drainers Board to the Queensland Building Services Authority.

RECOMMENDATION 202:

refer to pages 196 - 197

Rural Health Advisory Council

Abolish, and transfer the rural health community consultations to the Office of Rural and Remote Health.

Abolish – transfer to Local Government

RECOMMENDATION 47:

refer to pages 87 -89

Category 2 Water Authorities: Avondale Water Board, Babinda Swamp Drainage Board, Benleith Water Board, Bollon South Water Authority, Bollon West Water Authority, Bones Knob Water Board, Boondooma Water Board, Brigooda Water Board, Callandoon Water Supply Board, Condamine Plains Water Board, Coreen Water Board, Cowley Drainage Board, Crowley Vale Water Board, Dundowran-Nikenbah Water Board, East Deeral Drainage Board, East Euramo Drainage Board, Eugun Bore Water Authority, Fernlee Water Authority, Glamorgan Vale Water Board, Grevillea Water Board, Ingie Water Authority, Juandah Water Board, Kaywana Bore Water Board, Kelsey Creek Water Board, Kooingal Water Board, Lower Herbert Water Management Authority, Marathon Bore Water Supply Board, Matthews Road Drainage Board, Merlwood Water Board, Middle Park Bore Water Supply Board, Mourilyan Drainage Board, Mulgildie Water Board, Myall Plains Water Board, North Burdekin Water Board, Oaky Creek Water Board, Orchard Creek Drainage Board, Palmgrove Water Board, Pioneer Valley Water Board, Riversdale-Murray Valley Water Management Board, Roadvale Water Board, Silkwood Drainage Board, Six Mile Creek Water Supply Board, Smithfield Drainage Board, South Burdekin Water Board, South Maroochy Drainage Board, Stagnant Creek Drainage Board, Taberna Bore Water Board, Wanda Creek Drainage Board, Warrubullen Drainage Board, Washpool Water Board, Weengallon Water Authority, Woodmillar Water Board, and Yambocully Water Board.

The Category 2 Water Boards should be abolished and their responsibilities transferred to local governments, which should have the flexibility to determine between delivering local water services themselves, delegating them to local boards or using alternative (non-government) institutional arrangements, such as establishing local cooperatives or incorporated associations. For smaller authorities (under 20 landholders), the most appropriate option might be by private contract.

We recommend that the transfer of responsibilities and assets be managed efficiently and cost-effectively once those determinations have been made and that the Treasurer waives any transfer duties that may be applicable.

We recommend that the *Water Act 2000* be amended to reduce the legislative red tape of the category 2 water bodies including specification of the means of establishment, membership and ongoing management of these bodies, to reflect the recommendations that these bodies be the responsibility of local governments and allow for alternative institutional arrangements to be implemented without the current legislative burdens.

RECOMMENDATION 46: refer to pages 86 -87
River Improvement Trusts, covering the following 15 areas: Burdekin, Cairns, Cardwell, Clifton, Don, Herbert, Ipswich, Johnstone, Jondaryan, Pioneer, Scenic Rim, Stanthorpe, Wambo, Warwick and Whitsunday

The River Improvement Trusts should be abolished and their functions transferred or incorporated into local governments, with all responsibilities and powers required to undertake their activities.

RECOMMENDATION 64: refer to page 97
Darling Downs-Moreton Rabbit Board

Abolish. Its infrastructure functions (primarily the upkeep of the rabbit-proof fence) should be transferred to the eight local governments in whose area the rabbit-proof fence exists. Any advice to the Minister on pest management issues that may previously have been provided by the Darling Downs-Moreton Rabbit Board should in future be provided by the Biosecurity Queensland Ministerial Advisory Council.

Abolish on completion

RECOMMENDATION 6: refer to page 62
CSI Holdings Pty Ltd

Status quo, with the company to be wound up on expiry or termination of all existing contractual undertakings by 2011.

RECOMMENDATION 97: refer to page 113
Land and Resources Tribunal

The Tribunal should be retained until its functions expire in 2011 and the Tribunal is abolished.

RECOMMENDATION 98: refer to page 114
Land Tribunal (Aboriginal)

The Tribunal should be retained until it has dealt with the remaining two matters on which it is required to adjudicate and then it should be abolished.

RECOMMENDATION 55: refer to pages 91 - 93
Southern Regional Water Pipeline Company Pty Ltd (trading as LinkWater Projects)
Queensland Water Infrastructure Pty Ltd
South East Queensland (Gold Coast) Desalination Company Pty Ltd (trading as SureSmart Water)
Western Corridor Recycled Water Pty Ltd

Status Quo is recommended for these four Special Purpose Vehicles, but each should be abolished on completion of the specific project for which it was established.

Sunset

RECOMMENDATION 144: refer to pages 150 - 151
Art and Place Curatorial Panel

The Panel should sunset in November 2010, in accordance with its original terms.

RECOMMENDATION 84: refer to page 107
Cape York Peninsula Regional Advisory Committee
Cape York Peninsula Region Scientific and Cultural Advisory Committee
Riversleigh Community Scientific Advisory Committee
Waanyi Ministerial Advisory Council

Status quo. A review should take place in respect of the Cape York Peninsula Regional Advisory Committee and the Cape York Peninsula Region Scientific and Cultural Advisory Committee within two years of their establishment.

It is recommended that the Queensland and Australian Governments should work together to develop a better model for the function and form of bodies managing World Heritage areas, with a view to improving the clarity and consistency of governance arrangements.

RECOMMENDATION 166: refer to page 165
Level 2 Redress Panel

Status quo, with the Panel sunsetting upon finalisation of round 2 payments.

RECOMMENDATION 183: refer to page 177
Ministerial Advisory Council for Science, Technology, Engineering and Manufacturing

Status quo, with the Council sunsetting as at the end of 2009.

RECOMMENDATION 149: refer to page 155
Q150 Celebrations Advisory Committee

Status quo, with the Committee sunsetting as at 31 December 2009.

RECOMMENDATION 43: refer to pages 82 - 83
Queensland Education and Training International Board

Status quo, except that the Board should be renamed as a 'Committee' and membership should not be remunerated. The body should sunset by 2011.

RECOMMENDATION 198: refer to page 194
Queensland Fluoridation Committee

Status Quo, with the two year sunset clause to be invoked.

To be sold

RECOMMENDATION 3: refer to page 61
Australian Institute for Commercialisation Pty Ltd

Sell.

RECOMMENDATION 178: refer to page 172
Aviation Australia

The proposed sale of this business is supported.

RECOMMENDATION 4: refer to pages 61 - 62
BioPharmaceuticals Australia (Network) Pty Ltd

Sell.

RECOMMENDATION 10: refer to page 64
i. lab Incubator Pty Ltd

Sell.

RECOMMENDATION 20:
teQstart Pty Ltd

refer to pages 68 - 69

Sale of this company is supported.

Non Government Organisations or Industry

RECOMMENDATION 191:

refer to pages 188 - 189

Bundaberg Health Services Foundation
Far North Queensland Hospital Foundation
Gold Coast Hospital Foundation
Ipswich Hospital Foundation
PA Foundation
Redcliffe Hospital Foundation
Royal Brisbane and Women's Hospital Foundation
Royal Children's Hospital Foundation
Sunshine Coast Health Foundation
The Prince Charles Hospital Foundation
Toowoomba Hospital Foundation
Townsville Hospital Foundation

The Foundations should become independent non-government charitable organisations.

RECOMMENDATION 88:

refer to pages 108 - 110

National Trust of Queensland

The National Trust of Queensland should become a non-government organisation instead of a government statutory body acting as a community organisation. It should no longer perform heritage listings; it should benefit from equivalent land tenure arrangements (by strict covenant) for the properties it currently owns and maintains; and it should be divested of responsibility for the Currumbin Wildlife Sanctuary.

The Currumbin Wildlife Sanctuary should be divested to community form or enabled to operate in its own right by suitable form within the Environment portfolio.

RECOMMENDATION 110:

refer to page 124

Queensland Transport Logistics Council

That this body will now be established by the private sector, instead of Government, is noted.

Change - Governance

RECOMMENDATION 62: refer to page 96
Biosecurity Queensland Ministerial Advisory Council

The Biosecurity Queensland Ministerial Advisory Council should be retained (once established). The Biosecurity Queensland Ministerial Advisory Council should take on the pest management advisory responsibilities of the Land Protection (Pest and Stock Route Management) Council and any pest management advisory responsibilities (not including upkeep of the rabbit-proof fence) of the Darling Downs-Moreton Rabbit Board.

RECOMMENDATION 22: refer to pages 69 - 70
Breakwater Island Casino Community Benefit Fund
Gambling Community Benefit Committee
Jupiters Casino Community Benefit Fund
Reef Casino Community Benefit Fund

Status quo, with the administration of the four Funds centralised and shared.

RECOMMENDATION 114: refer to pages 128 - 129
Building and Development Tribunals (and Referees)

Status quo, except for changing the name to Building and Development Dispute Resolution Committee.

RECOMMENDATION 76: refer to page 102
Coal Mining Safety and Health Advisory Council
Mining Safety and Health Advisory Council

Status quo, except the Councils should be renamed 'Committees' and membership should not be remunerated.

RECOMMENDATION 28: refer to pages 72 - 73
Construction Sector Standing Committee
Health and Community Services Sector Standing Committee
Manufacturing Sector Standing Committee
Retail and Wholesale Sector Standing Committee
Rural Sector Standing Committee
Transport and Storage Sector Standing Committee

Status quo, except that memberships per committee should be reduced to six each and the *Workplace Health and Safety Act 1995* should be amended accordingly. Non-ex officio appointees should be rotated each term.

RECOMMENDATION 159: refer to pages 161 - 162
Disability Council of Queensland

Status quo, except the advisory body should not be remunerated.

Darling Downs/South West Queensland Regional Disability Council
Far North Queensland Regional Disability Council
Fitzroy/Central West Queensland Regional Disability Council
Gold Coast Regional Disability Council
Greater Brisbane Regional Disability Council
Mackay/Whitsunday Regional Disability Council
Moreton Regional Disability Council
North Queensland Regional Disability Council
Sunshine Coast Regional Disability Council
Wide Bay/Burnett Regional Disability Council

Abolish.

RECOMMENDATION 189: refer to page 182
Disaster Appeals Trust Fund Committee

Status quo, except that the enabling legislation should be amended to provide for appointment of members by the chief executive (of the justice portfolio of which the Public Trustee is part) instead of by the Governor in Council.

RECOMMENDATION 52: refer to pages 90 - 91
Dumaresq-Barwon Border Rivers Commission

The Dumaresq-Barwon Border Rivers Commission should be retained, but with a view to consideration of its consolidation into the Commonwealth Government's Murray-Darling Basin Authority.

RECOMMENDATION 30: refer to pages 74 - 75
Electrical Equipment Committee
Electrical Licensing Committee
Electrical Safety Board
Electrical Safety Education Committee

Status quo, except the Board should be renamed a 'Council' and its membership should not be remunerated.

RECOMMENDATION 188: refer to pages 181 -182
Emergency Services Advisory Council
Rural Fire Advisory Council

Status quo, as a merged Council.

RECOMMENDATION 162: refer to pages 163 - 164
Forde Foundation Board of Advice

Status quo. The role of the Board of Advice should extend to advising the responsible Minister on strategic areas of continuing need, administration, and future directions for the Foundation.

RECOMMENDATION 83: refer to pages 105 - 106
Fraser Island World Heritage Area Management Committee plus 3 committees
Wet Tropics Management Authority plus 5 committees

The Fraser Island World Heritage Area Management Committee should be retained, on the assumption that the three other committees (the Community Advisory Committee, the Indigenous Advisory Committee and the Scientific Advisory Committee) are and continue to be sub-committees of the Management Committee.

The Wet Tropics Management Authority and its five sub-committees should be retained.

It is recommended that the Queensland and Australian Governments should work together to develop a better model for the function and form of bodies managing World Heritage areas, with a view to improving the clarity and consistency of governance arrangements.

RECOMMENDATION 194: refer to pages 192 - 193
Health Consumers Queensland Ministerial Consumer Advisory Committee

Status quo, except there should be no remuneration for members of a ministerial advisory committee.

RECOMMENDATION 119: refer to pages 132 -133
Local Government Remuneration Tribunal

Status quo with a change in form to establish a panel that can be formed on an as needs basis to undertake the reviews.

Any proposed changes to the Tribunal and the other bodies dealing with codes of conduct/disciplinary matters as proposed in the Local Government Bill 2008 should be assessed against the *Public Interest Map* (see Appendix A).

The proposed Ministerial Ethics advisory council should not be established. It is recommended that the *Public Sector Ethics Act 1994* be amended to give the Integrity Commissioner powers to give advice to the Minister for Local Government on ethical and integrity issues associated with local government councillors.

RECOMMENDATION 167: refer to page 166
Ministerial Advisory Council on Domestic and Family Violence

Status quo, except membership of advisory bodies should not be remunerated.

RECOMMENDATION 148: refer to page 154
Pacific Film and Television Commission

The organisational form should be a statutory body, instead of a company. Public sector governance arrangements for the body should be reviewed in line with the recommendations of the Good Governance Framework.

RECOMMENDATION 121: refer to page 134
Queensland Building Services Authority

The functions of the Plumbers and Drainers Board should be merged into the QBSA.

The QBSA should be a governing (not an advisory) board and the chief executive should be accountable to, and report through, the governing board to the responsible Minister. Any advisory responsibilities be transferred to the relevant government departments.

RECOMMENDATION 42: refer to page 82
Queensland China Council

Status quo, except that the membership size should be reduced and membership should not be remunerated.

RECOMMENDATION 44: refer to pages 83 -84
Queensland Indigenous Arts Marketing and Export Agency Advisory Board

Status quo, except that the Board should be renamed as a 'Committee' and membership should not be remunerated.

RECOMMENDATION 199: refer to page 195
Queensland Institute of Medical Research Trust
Council of the Queensland Institute of Medical Research

Status quo, except for a change in membership to provide for dual membership to be held by one member of each body (i.e. one member of the Trust to sit on the Council and one member of the Council to sit on the Trust).

RECOMMENDATION 200: refer to pages 195 - 196
Queensland Ministerial Advisory Committee on HIV/AIDS, Hepatitis C and Sexual Health

The focus and effectiveness of the Committee as it relates to the *Queensland HIV, Hepatitis C and Sexually Transmissible Infections Strategy 2005-2011* on an ongoing basis should be reviewed by the Minister together with a reduction in size of membership. As a ministerial advisory committee, members should not be remunerated.

RECOMMENDATION 16: refer to page 67
Queensland Small Business Advisory Council

Status quo, with regular rotation of members. (see also recommendation 2.4).

RECOMMENDATION 137: refer to page 144
Registrar General of Births, Deaths and Marriages

Status quo, including designated appointment of a Registrar-General except that the appointment authority should no longer be by the Governor in Council.

RECOMMENDATION 101: refer to page 115
State Rural Leasehold Land Ministerial Advisory Committee

Status quo, except membership of advisory bodies should not be remunerated.

RECOMMENDATION 187: refer to pages 180 - 181
Training and Employment Recognition Council

Status quo. Legislation would need to be amended to enable the Council to receive formal complaints directly instead of via the Ombudsman.

Training Ombudsman

Abolish.

RECOMMENDATION 38:

refer to page 78

Workplace Health and Safety Board

Status quo, except that the Board should be renamed as a 'Council' and members should not be remunerated.

Change – National reform/scheme**RECOMMENDATION 112:**

refer to pages 126 - 127

Board of Architects of Queensland

Status quo but a move to national registration is recommended.

RECOMMENDATION 192:

refer to pages 189 - 191

Chiropractors Board of Queensland**Dental Board of Queensland****Dental Technicians****Health Practitioners Board of Queensland****Optometrists Board of Queensland****Osteopaths Board of Queensland****Pharmacists Board of Queensland****Physiotherapists Board of Queensland****Podiatrists Board of Queensland****Psychologists Board of Queensland****Queensland Nursing Council**

Boards not part of national scheme to date:

Dental Prosthetists Board of Queensland**Medical Radiation Technologists Board of Queensland****Occupational Therapists Board of Queensland****Speech Pathologists Board of Queensland**

Consolidate into one health practitioner registration statutory authority that is national scheme compliant but includes the additional health practitioner registration boards not yet part of the national scheme.

RECOMMENDATION 193: refer to pages 189 - 192

Chiropractors Panel of Assessors
Dental Auxiliaries Panel of Assessors
Dental Panel of Assessors
Dental Technicians Panel of Assessors
Medical Practitioners Panel of Assessors
Optometrists Panel of Assessors
Osteopaths Panel of Assessors
Pharmacists Panel of Assessors
Physiotherapists Panel of Assessors
Podiatrists Panel of Assessors
Psychologists Panel of Assessors
Public Panel of Assessors

Not part of national scheme to date:

Dental Prosthetists Panel of Assessors
Medical Radiation Technologists Panel of Assessors
Occupational Therapists Panel of Assessors
Speech Pathologists Panel of Assessors

Consolidate ongoing functions into one health practitioner registration statutory authority suitably structured to accommodate them. The statutory authority should be national scheme compliant but include the additional health practitioner registration boards that are not part of the national scheme.

RECOMMENDATION 142: refer to pages 147

Consumer Safety Committee

Status quo, pending a national scheme and legislation by 2010 and consequent abolition of the Committee.

RECOMMENDATION 197: refer to page 194

Office of the Medical Board of Queensland

Status quo, until consolidation of the existing bodies as part of the National Registration and Accreditation Scheme by July 2010.

RECOMMENDATION 109: refer to pages 123 - 124

Queensland Road Safety Committee

Abolish upon the commencement of the new National Road Safety Council.

RECOMMENDATION 185: refer to pages 178 - 179
Queensland Studies Authority

Status quo, pending decisions taken for national curriculum reform.

Respective roles of the Department and its education portfolio bodies concerning curriculum activities should be clarified and settled as part of the structural and operational decisions taken for a national curriculum.

RECOMMENDATION 95: refer to page 112
Surveyors Board of Queensland

Status quo, pending a move to national registration.

RECOMMENDATION 96: refer to pages 112 - 113
Valuers Registration Board of Queensland

Status quo, pending the Council of Australian Governments' reform decisions.

Review

RECOMMENDATION 182: refer to pages 176 - 177
Gold Coast Institute of TAFE Board
Southbank Institute of Technology (Board)

Status quo is recommended.

A post-start up review to examine governance practices and outcomes within the agreed frameworks, as compared with the legislative objects of the statutory TAFE institutes, should occur within the first two years of operation.

RECOMMENDATION 116: refer to pages 129 - 130
Iconic Places Assessment Panels

Status quo with an operational review within two years of start-up.

RECOMMENDATION 147: refer to pages 153 - 154
Major Brisbane Festivals Pty Ltd

Status quo.

A post-event review of organisational form, governance and accountability arrangements should occur following its first year of operation to ensure fit for purpose and for managing public interest risks (including accountability, economy, efficiency, effectiveness, relevance).

RECOMMENDATION 171: refer to pages 168 - 169
Palm Island Community Company

Status quo. The planned post-start up review within 18 months is supported.

RECOMMENDATION 89: refer to page 110
Premier's Council on Climate Change

Status quo. There should be a review of the size and composition of the membership within its first two years.

RECOMMENDATION 133: refer to pages 141 - 143
Public Advocate

Pending analysis of a different finding (in favour) of the structural capability of the Public Advocate to perform its essential role in the current guardianship laws review by the Queensland Law Reform Commission due by 31 December 2009, the Public Advocate should be abolished and its functions transferred to the Adult Guardian.

RECOMMENDATION 204: refer to page 197
Queensland Community Housing Standards and Accreditation Council

Status quo, pending outcome of a review to transfer responsibility for the delivery of standards and accreditation services to a non-government service provider.

RECOMMENDATION 35: refer to page 77
Queensland Workplace Rights Ombudsman

A review into the ongoing need for the Ombudsman in response to national industrial relations reform is supported.

RECOMMENDATION 123:
South Bank Corporation

refer to pages 135 - 136

Status quo pending a review of the *South Bank Corporation Act 1989* to assess the nature and extent of an ongoing role for the Corporation and whether there is a Public Interest Case for its continued existence.

RECOMMENDATION 111:
Translink Transit Authority

refer to pages 124 - 126

Status quo with an operational review within two years of start-up.

RECOMMENDATION 79:
ZeroGen Pty Ltd

refer to page 103

A review should be undertaken by the Department to ascertain whether the body should be transferred to industry, or it should be wound up.

Consultation

RECOMMENDATION 180:

refer to pages 173 -175

Board of Trustees of the Brisbane Girls' Grammar School
Board of Trustees of the Brisbane Grammar School
Board of Trustees of the Ipswich Girls' Grammar School
Board of Trustees of the Ipswich Grammar School
Board of Trustees of the Rockhampton Girls' Grammar School
Board of Trustees of the Rockhampton Grammar School
Board of Trustees of the Toowoomba Grammar
Board of Trustees of the Townsville Grammar

The *Grammar Schools Act 1975* should be repealed and the Grammar Schools (formerly under that Act) should be brought within the *Education (Accreditation of Non-State Schools) Act 2001*.

RECOMMENDATION 170:
Mt Gravatt Showgrounds Trust

refer to page 168

In consultation with the Brisbane City Council and the Mt Gravatt Showgrounds Trust, the Queensland Government should examine whether the functions of the Mt Gravatt Showgrounds Trust (and property) should be transferred to the Brisbane City Council.

Merge – Transfer

RECOMMENDATION 117: refer to page 131
Local Government Electoral and Boundaries Review Commissions

The functions and establishment of the Commission should be transferred to the Electoral Commissioner, to be overseen as an independent arbiter.

Merge - Compatible

RECOMMENDATION 73: refer to page 101
Board of Examiners (Coal Mining Safety and Health Act)
Board of Examiners (Mining and Quarrying Safety and Health Act)

Merger of these two bodies.

RECOMMENDATION 50: refer to page 90
Referral Panel (Moratorium) and Referral Panel (Resource Operations Plan)

The functions of the two Referral Panels should be retained, but the two Panels should be combined, with a review after two years.

Merge – Industry Advisory Forum

RECOMMENDATION 7: refer to page 63
Environment Industry Reference Group

Merge into a single portfolio industries advisory forum. Members from businesses in the industry should be rotated each term. (see also recommendations 2.4, 12, 13, 15).

RECOMMENDATION 66: refer to page 98
Food Industry Advisory Council
Queensland Food, Fibre and Agribusiness Council

These two bodies should be merged, and a new advisory body should be created which reports to both relevant Ministers (the Minister for Primary Industries and Fisheries and the Minister for Tourism, Regional Development and Industry).

RECOMMENDATION 12: refer to page 65
Manufacturing Leaders Group

Merge into a single portfolio industries advisory forum. Members from businesses in the industry should be rotated on a term basis. (see also recommendations 2.4, 7, 13, 15).

RECOMMENDATION 13:

refer to pages 65 - 66

Queensland Biotechnology Advisory Council

Merge into a single portfolio industries advisory forum. Membership should not be remunerated. (see also recommendation 2.4, 7, 12, 15).

RECOMMENDATION 15:

refer to pages 66 - 67

Queensland Marine Industries Reference Group

Merge into a single portfolio industries advisory forum. Members from businesses in the industry should be rotated each term. (see also recommendations 2.4, 7, 12, 13).

Appendix C

APPOINTMENT PROCESS TO QUEENSLAND GOVERNMENT BOARDS, COMMITTEES AND STATUTORY AUTHORITIES

Persons involved in process to make appointments to government boards, committees and statutory authorities.

Ministers are required to raise all proposed appointments, regardless of whether they are significant or not, with the Premier in writing.

Ministers are required to bring all "significant" full-time and part-time appointment proposals to Cabinet for consideration. The Cabinet Handbook²⁹⁰ defines what types of appointments are significant.

The appointment process can cost the Government up to \$50,000 per appointment depending on the nature of the appointment and the process that needs to be undertaken. The top end cost would be for those bodies where advertisement would be required, assessment/interview panels established to determine the best nominees, and requiring both Cabinet and Executive Council approvals. The costs capture the time taken by the many officers at differing levels including Directors-General, Ministers, Cabinet and the Governor's time involved in an appointment process.

The following identifies some of the steps involved in the process. Each step requires officers to undertake the work as well as senior officers and senior executives and the Minister as part of the decision making processes. It also involves officers from other departments, and persons external to government.

The processes may include but are not limited to the following:

- Monitoring of upcoming appointments to bodies by each department and briefing on nomination process.
- Undertaking advertising if relevant (normally over a two week period and to be in Brisbane and Regional papers and depending on the positions may also be advertised nationally).
- Consulting with stakeholder groups for nominations as necessary – this can be rather extensive depending on which industry portfolio.
- Where advertised, undertaking a shortlist and/or interview process to identify preferred nominees.
- Consulting with relevant Departments such as Department of the Premier and Cabinet (undertakes a search of the Register of Nominee to government bodies and consults with Office for Women and Multicultural Affairs Queensland), Department of Employment and Industrial relations on matters relating to remuneration, Office for Women and Treasury Department for budgets for bodies, as required in the Cabinet handbook.

²⁹⁰ Department of the Premier and Cabinet, *Queensland Cabinet Handbook*, Queensland Government, 2008.

- Undertaking all relevant checks as either required by legislation or by Government policy such as criminal history or bankruptcy, or getting potential nominees to complete suitability declaration form.
- Once assessed, the Minister consults with the Premier seeking approval of the preferred nominees for either appointment, consideration by Cabinet and/or Governor in Council approval.
- Once approved by the Premier, relevant cabinet submission prepared and signed by Minister if required or appointment letters are issued from the Minister.
- Cabinet submission goes through Cabinet process (lodgement of advance and final cabinet submissions four to five week process as required under the Cabinet Handbook).
- Where Governor in Council approval is sought, executive council minute process is followed.²⁹¹ Executive Council Minutes are first prepared by Departments (and subjected to departmental clearance and approval processes) and then forwarded to the Executive Council secretariat for processing (such as reviewing that Minute accords with requirements for contents, checking contents, briefing Director-General and Premier on the contents, listing on Executive Council agenda). This involves secretariat staff and the Clerk of Executive Council (a senior appointment in the Department of the Premier and Cabinet). All minutes are considered and agreed to by Executive Councillors at the end of the Cabinet meeting prior to submitting to the Governor for consideration in advance of the scheduled Executive Council meeting at which the Minute is then considered and a decision made by the Governor in Council.
- Various appointments then require Gazettal notice.
- Variations to nominations can occur at any of the steps and could require a duplication of the approval process as necessary.
- Once approvals and any public notifications (if required) are undertaken appointment letters are sent from the sponsoring Minister.

²⁹¹ Department of the Premier and Cabinet, *Executive Council Handbook*, Queensland Government, 2007.

Appendix D

LIST OF GOVERNMENT BODIES FOR INCLUSION IN REVIEW (BY PORTFOLIO)

MINISTERIAL PORTFOLIO	GOVERNMENT BODY	PAGE REFERENCE
Attorney General and Justice	Animal Valuers Tribunal	Chapter 5, pp. 94-95
Attorney General and Justice	Appeal Costs Fund Board	Chapter 7, pp. 137-138
Attorney General and Justice	Board of Trustees of the Funeral Benefit Trust Fund	Chapter 7, p. 138
Attorney General and Justice	Consumer Safety Committee	Chapter 7, p. 147
Attorney General and Justice	Disaster Appeals Trust Fund Committee	Chapter 8, p. 182
Attorney General and Justice	Dispute Resolution Centres Council	Chapter 7, pp. 138-139
Attorney General and Justice	Land and Resources Tribunal	Chapter 5, p. 113
Attorney General and Justice	Land Court	Chapter 5, p. 115
Attorney General and Justice	Land Tribunal (Aboriginal)	Chapter 5, p. 114
Attorney General and Justice	Land Tribunal (Torres Strait Islander)	Chapter 5, p. 114
Attorney General and Justice	Legal Aid Board & Legal Aid Queensland	Chapter 7, p. 139
Attorney General and Justice	Legal Practice Committee	Chapter 7, pp. 139-140
Attorney General and Justice	Legal Practitioners Admissions Board	Chapter 7, p. 140
Attorney General and Justice	Legal Services Commission	Chapter 7, pp. 140-141
Attorney General and Justice	Professional Standards Council	Chapter 7, p. 141
Attorney General and Justice	Public Advocate	Chapter 7, pp. 141-143
Attorney General and Justice	Public Trust Office Investment Board	Chapter 7, p. 143
Attorney General and Justice	Queensland Law Reform Commission	Chapter 7, pp. 143-144
Attorney General and Justice	Queensland Law Society (Council)	Chapter 7, p. 144
Attorney General and Justice	Registrar General of Births, Deaths and Marriages	Chapter 7, p. 144
Attorney General and Justice	Supreme Court Library Committee	Chapter 7, p. 145
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	ATSI Appeals Tribunal (Land Holdings)	Chapter 8, p. 159
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Australian South Sea Islander Community Foundation Board of Advice	Chapter 8, p. 160
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Complaints Management Quality Committee	Chapter 8, pp. 160-161
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Darling Downs/South West Queensland Regional Disability Council	Chapter 8, pp. 161-162
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Disability Council of Queensland	Chapter 8, pp. 161-162
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Duke of Edinburgh's Award Committee	Chapter 8, p. 162
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Far North Queensland Regional Disability Council	Chapter 8, pp. 161-162
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Fitzroy/Central West Queensland Regional Disability Council	Chapter 8, pp. 161-162
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Forde Foundation Board of Advice	Chapter 8, pp. 163-164

Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Gold Coast Regional Disability Council	Chapter 8, pp. 161-162
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Greater Brisbane Regional Disability Council	Chapter 8, pp. 161-162
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Indigenous Advisory Council	Chapter 8, p. 164
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Indigenous Queenslanders Foundation Board of Advisors	Chapter 8, p. 164
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Island Industries Board	Chapter 8, p. 165
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Level 2 Redress Panel	Chapter 8, p. 165
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Mackay/Whitsunday Regional Disability Council	Chapter 8, pp. 161-162
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Ministerial Advisory Council on Domestic and Family Violence	Chapter 8, p. 166
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Moreton Regional Disability Council	Chapter 8, pp. 161-162
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Multicultural Community Ministerial Advisory Committee	Chapter 8, pp. 167-168
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	North Queensland Regional Disability Council	Chapter 8, pp. 161-162
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Palm Island Community Company	Chapter 8, pp. 168-169
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Queensland Compact Joint Governance Committee	Chapter 8, pp. 169-170
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Queensland Seniors Council	Chapter 8, p. 170
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Queensland Youth Council	Chapter 8, pp. 170-171
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Sunshine Coast Regional Disability Council	Chapter 8, pp. 161-162
Communities, Disability Services, A&TSIP, Multicultural Affairs, Seniors and Youth	Wide Bay Burnett Regional Disability Council	Chapter 8, pp. 161-162
Education, Training and the Arts	Aboriginal Centre for Performing Arts Pty Ltd	Chapter 8, p. 171
Education, Training and the Arts	Art and Place Curatorial Panel	Chapter 8, pp. 150-151
Education, Training and the Arts	Aviation Australia	Chapter 8, p. 172
Education, Training and the Arts	Board of the Queensland College of Teachers	Chapter 8, p. 172

Education, Training and the Arts	Board of the Queensland Museum	Chapter 8, p. 152
Education, Training and the Arts	Board of Trustees of the Brisbane Girls' Grammar School	Chapter 8, pp. 173-175
Education, Training and the Arts	Board of Trustees of the Brisbane Grammar School	Chapter 8, pp. 173-175
Education, Training and the Arts	Board of Trustees of the Ipswich Girls' Grammar School	Chapter 8, pp. 173-175
Education, Training and the Arts	Board of Trustees of the Ipswich Grammar School	Chapter 8, pp. 173-175
Education, Training and the Arts	Board of Trustees of the Rockhampton Girls' Grammar School	Chapter 8, pp. 173-175
Education, Training and the Arts	Board of Trustees of the Rockhampton Grammar School	Chapter 8, pp. 173-175
Education, Training and the Arts	Board of Trustees of the Toowoomba Grammar School	Chapter 8, pp. 173-175
Education, Training and the Arts	Board of Trustees of the Townsville Grammar School	Chapter 8, pp. 173-175
Education, Training and the Arts	Council of Griffith University	Chapter 8, p. 175
Education, Training and the Arts	Council of James Cook University	Chapter 8, p. 175
Education, Training and the Arts	Council of the Central Queensland University	Chapter 8, p. 175
Education, Training and the Arts	Council of the Queensland University of Technology	Chapter 8, p. 175
Education, Training and the Arts	Council of the University of Southern Queensland	Chapter 8, p. 175
Education, Training and the Arts	Council of the University of the Sunshine Coast	Chapter 8, p. 175
Education, Training and the Arts	Gold Coast Institute of TAFE Board	Chapter 8, pp. 176-177
Education, Training and the Arts	Library Board of Queensland	Chapter 8, pp. 152-153
Education, Training and the Arts	Major Brisbane Festivals Pty Ltd	Chapter 8, pp. 153-154
Education, Training and the Arts	Ministerial Advisory Council for Science, Technology, Engineering and Manufacturing	Chapter 8, p. 177
Education, Training and the Arts	Non-State Schools Accreditation Board	Chapter 8, p. 178
Education, Training and the Arts	Non-State Schools Eligibility for Government Funding Committee	Chapter 8, p. 178
Education, Training and the Arts	Pacific Film and Television Commission	Chapter 8, p. 154
Education, Training and the Arts	Queensland Art Gallery Board of Trustees	Chapter 8, p. 155
Education, Training and the Arts	Queensland Music Festival Pty Ltd	Chapter 8, pp. 155-156
Education, Training and the Arts	Queensland Performing Arts Trust and Director	Chapter 8, pp. 156-157
Education, Training and the Arts	Queensland Studies Authority	Chapter 8, pp. 178-179
Education, Training and the Arts	Queensland Theatre Company	Chapter 8, pp. 157-159
Education, Training and the Arts	Senate of the University of Queensland	Chapter 8, p. 175
Education, Training and the Arts	Southbank Institute of Technology (Board)	Chapter 8, pp. 176-177

Education, Training and the Arts	The Building and Construction Industry Training Fund (BCITF) (Old)	Chapter 8, p. 180
Education, Training and the Arts	Training and Employment Recognition Council	Chapter 8, pp. 180-181
Education, Training and the Arts	Training Ombudsman	Chapter 8, pp. 180-181
Emergency Services	Emergency Services Advisory Council	Chapter 8, pp. 181-182
Emergency Services	Rural Fire Advisory Council	Chapter 8, pp. 181-182
Health	Banana Health Community Council	Chapter 8, pp. 183-187
Health	Bayside Health Community Council	Chapter 8, pp. 183-187
Health	Bowen Health Community Council	Chapter 8, pp. 183-187
Health	Bundaberg Health Community Council	Chapter 8, pp. 183-187
Health	Bundaberg Health Services Foundation	Chapter 8, pp. 188-189
Health	Cairns Health Community Council	Chapter 8, pp. 183-187
Health	Cape York Health Community Council	Chapter 8, pp. 183-187
Health	Central Highlands Health Community Council	Chapter 8, pp. 183-187
Health	Central West Health Community Council	Chapter 8, pp. 183-187
Health	Charleville Health Community Council	Chapter 8, pp. 183-187
Health	Charters Towers Health Community Council	Chapter 8, pp. 183-187
Health	Chiropractors Board of Queensland	Chapter 8, pp. 189-191
Health	Chiropractors Panel of Assessors	Chapter 8, pp. 191-192
Health	Council of the Queensland Institute of Medical Research	Chapter 8, p. 195
Health	Dental Auxiliaries Panel of Assessors	Chapter 8, pp. 191-192
Health	Dental Board of Queensland	Chapter 8, pp. 189-191
Health	Dental Panel of Assessors	Chapter 8, pp. 191-192
Health	Dental Prosthetists Panel of Assessors	Chapter 8, pp. 191-192
Health	Dental Technicians and Dental Prosthetists Board of Queensland	Chapter 8, pp. 189-191
Health	Dental Technicians Panel of Assessors	Chapter 8, pp. 191-192
Health	Far North Queensland Hospital Foundation	Chapter 8, pp. 188-189
Health	Fraser Coast Health Community Council	Chapter 8, pp. 183-187
Health	Gladstone Health Community Council	Chapter 8, pp. 183-187
Health	Gold Coast Health Community Council	Chapter 8, pp. 183-187
Health	Gold Coast Hospital Foundation	Chapter 8, pp. 188-189
Health	Gympie Health Community Council	Chapter 8, pp. 183-187
Health	Health Consumers Queensland Ministerial Consumer Advisory Committee	Chapter 8, pp. 192-193
Health	Health Quality and Complaints Commission	Chapter 8, p. 193
Health	Innisfail Health Community Council	Chapter 8, pp. 183-187
Health	Ipswich Hospital Foundation	Chapter 8, pp. 188-189
Health	Logan-Beaudesert Health Community Council	Chapter 8, pp. 183-187
Health	Mackay Health Community Council	Chapter 8, pp. 183-187
Health	Medical Board of Queensland	Chapter 8, p. 194
Health	Medical Practitioners Panel of Assessors	Chapter 8, pp. 191-192
Health	Medical Radiation Technologists Board of Queensland	Chapter 8, pp. 189-191
Health	Medical Radiation Technologists Panel of Assessors	Chapter 8, pp. 191-192
Health	Mental Health Court	Chapter 8, pp. 193-194
Health	Mental Health Review Tribunal	Chapter 8, pp. 193-194
Health	Moranbah Health Community Council	Chapter 8, pp. 183-187

Health	Mount Isa Health Community Council	Chapter 8, pp. 183-187
Health	North Burnett Health Community Council	Chapter 8, pp. 183-187
Health	Northern Downs Health Community Council	Chapter 8, pp. 183-187
Health	Occupational Therapists Board of Queensland	Chapter 8, pp. 189-191
Health	Occupational Therapists Panel of Assessors	Chapter 8, pp. 191-192
Health	Office of Health Practitioner Registrations Boards	Chapter 8, pp. 189-191
Health	Office of the Medical Board of Queensland	Chapter 8, p. 194
Health	Optometrists Board of Queensland	Chapter 8, pp. 189-191
Health	Optometrists Panel of Assessors	Chapter 8, pp. 191-192
Health	Osteopaths Board of Queensland	Chapter 8, pp. 189-191
Health	Osteopaths Panel of Assessors	Chapter 8, pp. 191-192
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Health	Physiotherapists Board of Queensland	Chapter 8, pp. 189-191
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Health	Podiatrists Board of Queensland	Chapter 8, pp. 189-191
Health	Podiatrists Panel of Assessors	Chapter 8, pp. 191-192
Health	Princess Alexandra Hospital Health Community Council	Chapter 8, pp. 183-187
Health	Psychologists Board of Queensland	Chapter 8, pp. 189-191
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Health	Public Panel of Assessors	Chapter 8, pp. 191-192
Health	Queen Elizabeth II Hospital Health Community Council	Chapter 8, pp. 183-187
Health	Queensland Fluoridation Committee	Chapter 8, p. 194
Health	Queensland Institute of Medical Research Trust	Chapter 8, p. 195
Health	Queensland Ministerial Advisory Committee on HIV/AIDS, Hepatitis C and Sexual Health	Chapter 8, pp. 195-196
Health	Queensland Nursing Council	Chapter 8, pp. 189-191
Health	Radiation Advisory Council	Chapter 8, p. 196
Health	Redcliffe Hospital Foundation	Chapter 8, pp. 188-189
Health	Redcliffe-Caboolture Health Community Council	Chapter 8, pp. 183-187
Health	Rockhampton Health Community Council	Chapter 8, pp. 183-187
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Health	Royal Brisbane and Women's Health Community Council	Chapter 8, pp. 183-187
Health	Royal Brisbane and Women's Hospital Foundation	Chapter 8, pp. 188-189
Health	Royal Children's Hospital Foundation	Chapter 8, pp. 188-189
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Health	South Burnett Health Community Council	Chapter 8, pp. 183-187
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Health	Sunshine Coast Health Community Council	Chapter 8, pp. 183-187
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Health	Tablelands Health Community Council	Chapter 8, pp. 183-187
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Health	The Prince Charles Hospital Health Community Council	Chapter 8, pp. 183-187
Health	Toowoomba Health Community Council	Chapter 8, pp. 183-187

Health	Toowoomba Hospital Foundation	Chapter 8, pp. 188-189
Health	Torres Strait and Northern Peninsula Area Health Community Council	Chapter 8, pp. 183-187
Health	Townsville Health Community Council	Chapter 8, pp. 183-187
Health	Townsville Hospital Foundation	Chapter 8, pp. 188-189
Health	West Moreton Health Community Council	Chapter 8, pp. 183-187
Infrastructure & Planning	Building and Development Tribunals (and Referees)	Chapter 6, pp. 128-129
Infrastructure & Planning	City North Infrastructure (CNI) Pty Ltd	Chapter 6, pp. 118-120
Infrastructure & Planning	Gladstone Economic and Industry Development Board	Chapter 6, p. 129
Infrastructure & Planning	Iconic Places Assessment Panels	Chapter 6, pp. 129-130
Infrastructure & Planning	Plumbers and Drainers Board	Chapter 6, pp. 133-134
Infrastructure & Planning	Queensland Manufactured Water Authority (trading as WaterSecure)	Chapter 5, pp. 91-92
Infrastructure & Planning	Queensland Water Commission	Chapter 5, pp. 91-92
Infrastructure & Planning	Queensland Water Infrastructure Pty Ltd	Chapter 5, pp. 91-93
Infrastructure & Planning	SEQ Water Grid Manager	Chapter 5, pp. 91-92
Infrastructure & Planning	South East Queensland (Gold Coast) Desalination Company Pty Ltd (trading as SureSmart Water)	Chapter 5, pp. 91-93
Infrastructure & Planning	Southern Regional Water Pipeline Company Pty Ltd (trading as LinkWater Projects)	Chapter 5, pp. 91-93
Infrastructure & Planning	Urban Land Development Authority	Chapter 6, p. 136
Infrastructure & Planning	Water Infrastructure Project Board	Chapter 5, p. 93
Infrastructure & Planning	Western Corridor Recycled Water Pty Ltd	Chapter 5, pp. 91-93
Mains Roads & Local Government	Central Queensland Ministerial Regional Community Forum	Chapter 8, pp. 166-167
Mains Roads & Local Government	Darling Downs/South West Ministerial Regional Community Forum	Chapter 8, pp. 166-167
Mains Roads & Local Government	Far North Queensland Ministerial Regional Community Forum	Chapter 8, pp. 166-167
Mains Roads & Local Government	Gold Coast Ministerial Regional Community Forum	Chapter 8, pp. 166-167
Mains Roads & Local Government	Greater Brisbane Ministerial Regional Community Forum	Chapter 8, pp. 166-167
Mains Roads & Local Government	Local Government Electoral and Boundaries Review Commissions	Chapter 6, p. 131
Mains Roads & Local Government	Local Government Grants Commission	Chapter 6, pp. 131-132
Mains Roads & Local Government	Local Government Remuneration Tribunal	Chapter 6, pp. 132-133
Mains Roads & Local Government	Mackay/Whitsunday Ministerial Regional Community Forum	Chapter 8, pp. 166-167
Mains Roads & Local Government	Moreton Ministerial Regional Community Forum	Chapter 8, pp. 166-167
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Mains Roads & Local Government	Queensland Motorways Ltd	Chapter 6, pp. 120-121
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Mains Roads & Local Government	Queensland Motorways Ltd - Port Motorway Ltd	Chapter 6, pp. 120-121
Mains Roads & Local Government	Queensland Motorways Ltd - Queensland Motorways Management Pty Ltd	Chapter 6, pp. 120-121

Mains Roads & Local Government	Queensland Motorways Ltd - The Gateway Bridge Company Limited	Chapter 6, pp. 120-121
Mains Roads & Local Government	Sunshine Coast Ministerial Regional Community Forum	Chapter 8, pp. 166-167
Mains Roads & Local Government	Transmax Pty Ltd	Chapter 6, p. 121
Mains Roads & Local Government	Wide Bay/Burnett Ministerial Regional Community Forum	Chapter 8, pp. 166-167
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Mines and Energy	Board of Examiners (Mining & Quarrying Safety & Health Act)	Chapter 5, p. 101
Mines and Energy	Capricornia Regional Electricity Council	Chapter 5, pp. 100-101
Mines and Energy	Coal Mining Safety and Health Advisory Council	Chapter 5, p. 102
Mines and Energy	Energy Ombudsman Queensland	Chapter 5, p. 102
Mines and Energy	Energy Ombudsman Queensland Advisory Council	Chapter 5, p. 103
Mines and Energy	Far North Queensland Regional Electricity Council	Chapter 5, pp. 100-101
Mines and Energy	Mackay Regional Electricity Council	Chapter 5, pp. 100-101
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Mines and Energy	North Queensland Regional Electricity Council	Chapter 5, pp. 100-101
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Mines and Energy	South-West Queensland Regional Electricity Council	Chapter 5, pp. 100-101
Mines and Energy	Wide Bay-Burnett Regional Electricity Council	Chapter 5, pp. 100-101
Mines and Energy	ZeroGen Pty Ltd	Chapter 5, p. 103
Natural Resources and Water	Avondale Water Board	Chapter 5, pp. 87-89
Natural Resources and Water	Babinda Swamp Drainage Board	Chapter 5, pp. 87-89
Natural Resources and Water	Benleith Water Board	Chapter 5, pp. 87-89
Natural Resources and Water	Bollon South Water Authority	Chapter 5, pp. 87-89
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Natural Resources and Water	Bones Knob Water Board	Chapter 5, pp. 87-89
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Natural Resources and Water	Burdekin Shire Rivers Improvement Trust	Chapter 5, pp. 86-87
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Natural Resources and Water	Callandoon Water Supply Board	Chapter 5, pp. 87-89
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Natural Resources and Water	Cape York Peninsula Region Scientific and Cultural Advisory Committee	Chapter 5, p. 107
Natural Resources and Water	Cardwell Shire River Improvement Trust	Chapter 5, pp. 86-87
Natural Resources and Water	Clifton Shire River Improvement Trust	Chapter 5, pp. 86-87
Natural Resources and Water	Condamine Plains Water Board	Chapter 5, pp. 87-89
Natural Resources and Water	Coreen Water Board	Chapter 5, pp. 87-89
Natural Resources and Water	Cowley Drainage Board	Chapter 5, pp. 87-89
Natural Resources and Water	Crowley Vale Water Board	Chapter 5, pp. 87-89
Natural Resources and Water	Don River Improvement Trust	Chapter 5, pp. 86-87
Natural Resources and Water	Dumaresq - Barwon Border Rivers Commission	Chapter 5, pp. 90-91

Natural Resources and Water	Dundowran-Nikenbah Water Board	Chapter 5, pp. 87-89
Natural Resources and Water	East Deeral Drainage Board	Chapter 5, pp. 87-89
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Natural Resources and Water	Eugun Bore Water Authority	Chapter 5, pp. 87-89
Natural Resources and Water	Fernlee Water Authority	Chapter 5, pp. 87-89
Natural Resources and Water	Gladstone Area Water Board	Chapter 5, p. 89
Natural Resources and Water	Glamorgan Vale Water Board	Chapter 5, pp. 87-89
Natural Resources and Water	Grevillea Water Board	Chapter 5, pp. 87-89
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Appendix E

INDEX FOR SUBMISSIONS

Terms of Reference

No.	Submission
C1.	Mr D I Marshall
C2.	Associate Professor Gregory Day
C3.	Mr Ian Moller
C4.	Ms Daphne Mirie, Deputy Chair, Queensland Academy of Sport
C5.	Mr John Sinclair, Honorary Secretary and Honorary Project Officer, Fraser Island Defenders Organisation
C6.	Professor Paul Gadek, Chair, Scientific Advisory Committee of the Wet Tropics Management Authority
C7.	Ms Renee Mackenzie, Chief Executive Officer, Darling Downs-Moreton Rabbit Board
C8.	Ms Ellie Bock, President, Cairns and Far North Environment Centre
C9.	Ms Theresa Nicholas
C10.	Mr Warren Tapp, Managing Director, Directors Australia Pty Ltd
C11.	Ms Glenys M Bolland (<i>published in part</i>)
C12.	Ms Sally Jackson, Director, Roadvale Water Board
C13.	Mr Dan Caldwell (<i>not published</i>)
C14.	Ms Sarah Jane Park
C15.	Mr J R Palmer, Manager, Pioneer Valley Water Board
C16.	Mr Russell Stewart, Chairman, Burnett Mary Regional Group
C17.	Ms Claire Riethmuller, Director, Queensland Law Reform Commission
C18.	Ms Bryony Barnett, Chair, WTMA Community Consultative Committee
C19.	Mr Manus Boyce QC, Chairman, Prostitution Licensing Authority
C20.	Mr John Grey AC, Chair, Wet Tropics Management Authority
C21.	Mr Ian Jennings, General Manager, Queensland Building Services Authority
C22.	Ms Sheridan Morris, Managing Director, Reef and Rainforest Research Centre Limited
C23.	Mr James Shevlin, First Assistant Secretary, Heritage Division, Department of the Environment, Water, Heritage and the Arts, Australian Government

Part A Report

No.	Submission
S1.	Wide Bay-Burnett Electricity Council
S2.	Lower Herbert Water Management Authority
S3.	University of the Sunshine Coast
S4.	The Hon P de Jersey AC, Chief Justice, Supreme Court Queensland
S5.	Prostitution Licensing Authority
S6.	Health Quality and Complaints Commission
S7.	Mr Joseph Monsour, Mr Darryl Prenzler and Mr Peter Stephan
S8.	Mr Wayne and Ms Noelene Palmer
S9.	Parklands Gold Coast
S10.	Mr David White
S11.	Queensland Corrective Services, Queensland Government
S12.	Department of Emergency Services, Queensland Government
S13.	Department of Main Roads, Queensland Government
S14.	Department of Primary Industries and Fisheries, Queensland Government
S15.	Queensland Education and Training International
S16.	James Cook University
S17.	Q-COMP
S18.	Woodmillar Water Board
S19.	South East Queensland Regional Electricity Council
S20.	Local Government Electoral and Boundaries Review Commission
S21.	Pioneer Valley Water Board
S22.	Brisbane Housing Company Limited
S23.	Dr Martin Gellender
S24.	North Burnett Health Community Council
S25.	Grevillea Water Board
S26.	Community Resource Unit Inc
S27.	National Trust of Queensland
S28.	Public Trustee
S29.	Mr Phil McCullough
S30.	Darling Downs-Moreton Rabbit Board
S31.	Condamine Alliance
S32.	Land and Resources Tribunal
S33.	Land Court of Queensland
S34.	Aboriginal and Torres Strait Islander Land Tribunals
S35.	Board of Trustees of the Funeral Benefit Fund
S36.	Queensland Water Commission
S37.	Library Board of Queensland
S38.	Professor Roger Wettenhall
S39.	Scenic Rim Rivers Improvement Trust
S40.	Wet Tropics Management Authority
S41.	University of Queensland
S42.	Island Industries Board
S43.	State Council of River Trusts
S44.	Pioneer River Improvement Trust
S45.	SEQ Water Grid Manager
S46.	UnitingCare Centre for Social Justice
S47.	Queensland Law Reform Commission
S48.	Public Advocate
S49.	Safe Food Production Queensland

No.	Submission
S50.	Legal Aid Queensland
S51.	OATSIP, Department of Communities, Queensland Government
S52.	Strategic Policy and Evaluation, Department of Communities, Queensland Government
S53.	Strategic Policy and Evaluation, Disability Services Queensland, Queensland Government
S54.	Queensland Building Services Authority
S55.	Ms Margaret Wade
S56.	Cairns River Improvement Trust
S57.	Burdekin Shire Rivers Improvement Trust
S58.	North Burdekin Water Board
S59.	Queensland University of Technology
S60.	Auditor-General
S61.	South Burdekin Water Board
S62.	Queensland Studies Authority
S63.	Queensland Disability Housing Coalition
S64.	Non-State Schools Accreditation Board and the Non-State Schools Eligibility for Government Funding Committee
S65.	Queensland Treasury, Queensland Government
S66.	Mr Arthur Devin
S67.	Queensland Transport, Queensland Government
S68.	Queensland Nursing Council
S69.	Department of Housing, Queensland Government
S70.	Mackay-Whitsunday Regional Consultative Group
S71.	Gold Coast Health Community Council
S72.	Whitsunday Rivers Improvement Trust
S73.	Dispute Resolution Centres Council
S74.	Queensland Theatre Company
S75.	Department of Employment and Industrial Relations, Queensland Government
S76.	Department of Local Government Sport and Recreation, Queensland Government
S77.	LinkWater and LinkWater Projects
S78.	Department of the Premier and Cabinet, Queensland Government
S79.	Gladstone Area Water Board
S80.	James Cook University – Submission 2
S81.	Queensland Museum
S82.	Queensland Law Reform Commission – Submission 2
S83.	Department of Infrastructure and Planning, Queensland Government
S84.	Queensland Performing Arts Trust
S85.	Board of Architects Queensland
S86.	Arts Queensland, Queensland Government
S87.	Department of Public Works, Queensland Government
S88.	Department of Mines and Energy, Queensland Government
S89.	Department of Mines and Energy, Queensland Government – Submission 2
S90.	Queensland Division, Engineers Australia
S91.	Department of Education, Training and the Arts, Queensland Government (<i>not published</i>)
S92.	Department of Tourism, Regional Development and Industry, Queensland Government
S93.	Cardwell and Johnstone Shire River Improvement Trusts
S94.	Tourism Queensland
S95.	Department of Housing, Queensland Government – Submission 2

TERMS OF REFERENCE

Review of Government Boards, Committees and Statutory Authorities

Background and scope

The Queensland Government will undertake a review of all government boards, committees and statutory authorities (hereinafter referred to as “government bodies”).

Unless directed by the Premier, this review will not consider:

- interdepartmental advisory committees;
- independent statutory office holders such as those listed in section 67 of the *Parliament of Queensland Act 2001*;
- Government Owned Corporations (GOCs);
- Those tribunals that have been the subject of a separate review; and
- Those events related bodies that are the subject of a separate review.

Purpose of the Review

The review will aim to reduce bureaucracy and unnecessary red tape; improve the overall efficiency of government bodies; and maintain the integrity and security of necessary regulatory functions.

Outcome

The outcome of the review will be delivered in two stages.

Part A will consider the current framework of government bodies, and recommend a governance decision-making model for improving the relevance, efficiency and effectiveness of the roles and functions currently being performed by government bodies.

Informed by the recommended option delivered in Part A, Part B will identify and recommend to the Premier:

- those government bodies that are working efficiently;
- those government bodies that are no longer necessary and can be abolished immediately;
- the work of any government bodies that can be merged into the functions of an existing government department;
- whether there are other bodies that carry out similar or complementary functions and, if so, whether the functions of the government bodies can be transferred to one of these other bodies;
- those government bodies for which longer term strategies may be considered, eg. delivery of function by alternative manner; and
- a process for the establishment of any future government bodies, which takes into consideration the need for a new body given that existing bodies may be able to perform the proposed functions.

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