

## Purpose

The purpose of this Policy is to outline the legislative requirements and establish the broad principles within which Council will operate its business activities in order to comply with the National Competition Policy (NCP).

## Scope

This policy is applicable to all business activities of Council that are required by the Local Government Act and/or Local Government Regulation to have NCP principles applied to them, and to any business activities that Council chooses to apply the NCP to, despite having no obligation under the Act and/or Regulation to do so.

## Guiding Principles

### 1. General

- 1.1 Chapter 3, Part 2, Division 2 of the Act specifies Council's obligation to identify and undertake certain actions with regard to its business activities to ensure Council complies with the NCP.
- 1.2 The requirements for the application of the NCP, either by way of the competitive neutrality principle (CNP) or the code of competitive conduct (CCC), are dependent on the classification of the business activity under the Act and Regulation.
- 1.3 The Regulation sets the thresholds that a business activity must meet to be considered a "significant business activity" (SBA) or a "prescribed business activity" (PBA).
- 1.4 The business activities of Council (and their classification) are outlined within Appendix 1 subject to any of the listed business activities being added or removed from this list as part of the annual budget process.

### 2. Classification and Requirements of Business Activities

#### Significant Business Activities

- 2.1 Council must identify any new SBA within its Annual Report for each financial year.
- 2.2 In the event a new SBA is identified within the Annual Report, Council must conduct a public benefit assessment of the new SBA in accordance with section 46 of the Act.
- 2.3 Council must prepare a report on the public benefit assessment that contains its recommendations about the application of the CNP in relation to the SBA.
- 2.4 At a meeting of Council, Council must consider the public benefit assessment report and decide, by resolution, whether or not to apply the CNP in relation to the SBA. If Council decides not to apply the CNP, the resolution must state the reasons for doing so.

- 2.5 Council must give the Minister a copy of the public benefit assessment report and all resolutions made in relation to that report.
- 2.6 If Council decides not to apply the CNP in relation to a SBA, Council must, within 3 years after making the decision, repeat the process within section 46 of the Act for that SBA.

#### Prescribed Business Activities

- 2.7 For any PBA, Council must decide each financial year, by resolution under section 47(7) of the Act, whether or not to apply the CCC to such activity. If it decides not to apply the CCC, the resolution must state its reasons for doing so.

#### Roads Activities

- 2.8 In accordance with section 47(3)(b) of the Act, Council must apply the CCC to a Roads Activity (RA) other than a roads activity for which business is conducted only through a sole supplier arrangement. A 'Roads Activity' is defined in section 47(5) of the Act.
- 2.9 Council must start to apply the CCC from when the RA is first conducted.

### 3. Application of the Competitive Neutrality Principle / Code of Competitive Conduct

#### Competitive Neutrality Principle

- 3.1 In accordance with section 44 of the Act, Council may apply the CNP to an SBA by applying: –
  - 3.1.1 Commercialisation; or
  - 3.1.2 Full Cost Pricing.
- 3.2 Commercialisation involves creating a new business unit, that is part of the local government to conduct the SBA on a commercial basis in keeping with the requirements set out in Chapter 3, Division 4 of the Regulation.
- 3.3 Full cost pricing involves pricing the SBA on a commercial basis, but without creating a new business unit in keeping with the requirements set out in Chapter 3, Division 3 of the Regulation.
- 3.4 Council will generally apply full cost pricing to its business activities (rather than commercialisation).

#### Code of Competitive Conduct

- 3.5 In accordance with the section 47 of the Act, the CCC is prescribed under the Regulation.
- 3.6 The elements of the CCC, as per section 32 of the Regulation, are as follows –
  - 3.6.1 the application of the CNP;
  - 3.6.2 the pricing provisions;
  - 3.6.3 the provisions about financial reporting (including preparation of an estimated activity statement and activity statement);
  - 3.6.4 the provisions about the treatment of community service obligations.
  - 3.6.5 obligations.

4. Broad Principles for the Operation of All Business Activities

- 4.1 Subject to other requirements and considerations, Council will, at all times, endeavour to operate its business activities in a manner that will provide a normal after-tax commercial return on the investments made into the business activity.
- 4.2 In order to generate the required returns, Council will endeavour to:
  - 4.2.1 manage operations as efficiently as possible in keeping with market and industry norms;
  - 4.2.2 establish a pricing regime that will cover efficient full operating costs (including non-cash items such as depreciation) and make a normal return on investment, taking into consideration the open market and competitor pricing (where applicable);
  - 4.2.3 credit the business activity with the cost of carrying out any Community Service Obligations (where applicable);
  - 4.2.4 adopt a methodology to calculate and allocate an overhead charge for any common Council services that the business activity may use;
  - 4.2.5 calculate a notional interest charge for any advances made to the business activity from Council; and
  - 4.2.6 calculate a notional tax on the profits made by the business activity.
- 4.3 The following will be applied in the calculation of the required normal return:
  - 4.3.1 the Regulated Asset Base of the business activity will be deemed to be the investments made in the business activity; and
  - 4.3.2 the required normal return will be calculated using the CAPM with the beta adjusted for the specific industry (or closest equivalent) of the business activity.
- 4.4 Each business activity will provide a return to Council by payment of a sum to Council's general fund. The exact amount to be paid will be determined taking into consideration:
  - 4.4.1 the operating surplus;
  - 4.4.2 cash balances; and
  - 4.4.3 re-investment requirements and borrowing capacity based on medium term projections.
- 4.5 Each business activity will prepare an asset management plan, which will be revised annually as required.
- 4.6 Each business activity will prepare at least a three-year annual performance plan, which will be revised annually. The annual performance plan will in the minimum identify:
  - 4.6.1 overall market assessment for the business activity's goods and services;
  - 4.6.2 where relevant, a marketing plan to achieve identified targeted sales volumes;
  - 4.6.3 targeted volumes for the relevant period(s);
  - 4.6.4 projected annual income and cash flow statements for each financial year;
  - 4.6.5 projected balance sheet as at the end of each financial year; and
  - 4.6.6 projected returns to investors.
- 4.7 The annual performance plans, incorporating the projected returns, will be presented to Council annually as part of the overall budget adoption process.

## Related Policies and Legislation

*Local Government Act 2009 (Qld) (Act)*

*Local Government Regulation 2012 (Qld) (Regulation)*

Asset Management Plans

Annual Budget

Long Term Financial Forecast

Performance Plans

## Definitions

**beta** refers to the definition of beta as set out within the CAPM.

**CAPM** refers to the Capital Asset Pricing Model.

**CCC** refers to the Code of Competitive Conduct as set out in section 47 of the Act and section 32 of the Regulation.

**CEO** refers to the Chief Executive Officer of Council appointed in accordance with the Act, or any person acting in that role.

**CNP** refers to the Competitive Neutrality Principle as set out in section 44 of the Act and section 33 of the Regulation.

**Community Service Obligations** refers to Community Service Obligations determined in accordance with section 24 of the Regulation, being an obligation that Council imposes on a business entity to do something that is not in the commercial interests of the business entity to do.

**Council** refers to the Whitsunday Regional Council.

**NCP** refers to National Competitive Policy.

**PBA** refers to a Prescribed Business Activity determined in accordance with section 39 of the Regulation.

**RA** refers to a Roads Activity as defined in section 47(5) of the Act.

**SBA** refers to a Significant Business Activity determined in accordance with section 43(4) of the Act and section 19 of the Regulation.

## STRATEGIC POLICY: CORPORATE SERVICES

### Business Activities Policy (FIN\_18)

Endorsed by Council

26 June 2024

## Appendix 1

### COMMERCIAL BUSINESS ACTIVITIES OF COUNCIL

Business Activity	Classification	Application
Water & Sewerage	Significant Business Activity	Competitive Neutrality Principle
Waste Services	Significant Business Activity	Competitive Neutrality Principle
Whitsunday Coast Airport	Prescribed Business Activity	Code of Competitive Conduct
Foxdale Quarry	Prescribed Business Activity	Code of Competitive Conduct
Shute Harbour	Prescribed Business Activity	Code of Competitive Conduct
Proserpine Entertainment Centre	Prescribed Business Activity	None (CCC not applied)
Road Maintenance Activity	Business Activity	None (CCC not applied)
Holiday Parks	Prescribed Business Activity	Code of Competitive Conduct

### COUNCIL POLICY

Date Adopted by Council	26 June 2024	Council Resolution	2023/06/3.1.19
Effective Date	1 July 2024	Next Review Date	30 June 2025
Responsible Officer(s)	Manager Financial Services	Revokes	LSP_CORP_58