

Policy

Title: Competitive Neutrality

Category: Corporate Governance

Date Last Adopted: 28 March 2022

1. Objectives

To detail the process under which the Council will conduct an annual review of its significant business activities (“SBA”) to monitor and ensure compliance with the Competitive Neutrality Principles.

2. Background

In 1995 the Tasmanian Government signed three inter-governmental agreements relating to the implementation of the National Competition Policy (“NCP”). One of these agreements was the Competition Principles Agreement (“CPA”). Clause 3(1) of the CPA states that SBAs should not enjoy competitive advantages over their private sector competitors simply by virtue of public ownership.

The provisions of the CPA are applied to local government bodies by the Tasmanian Government. The CPA provides two separate models of competitive neutrality. These are the corporatisation model (clause 3(4)) and the full cost attribution model (clause 3(5)). According to the CPA, these models are to be applied to the extent that it is in the public benefit and on an ongoing-basis, all councils must:

- (a) identify all business activities within their operations;
- (b) identify which of these business activities are SBAs;
- (c) apply full cost attribution to those SBAs, to the extent that it is in the public benefit;
- (d) identify those SBAs which are suitable for corporatisation;
- (e) determine whether the programs and services within the SBAs are community service obligations (“CSO”);
- (f) undertake public benefit assessments of the CSO’s, including full cost attribution in the pricing of the programs or services;

- (g) corporatise those business activities where a public benefit assessment indicates that the benefits outweigh the costs of doing so.

Under the NCP, competitive neutrality principles only apply to SBAs. However, there is no prescribed definition of a “SBA” and each Local Government body must make its own assessment to determine whether an activity is a business and if that business is a “significant business”.

3. Policy

General

The Council will conduct a review of all of its activities on an annual basis to:

- (a) identify all of the Council's SBAs in accordance with the publication titled *“Identification and Management of Significant Business Activities by Local Government in Tasmania to Comply with Competitive Neutrality Principles”* issued by the Tasmanian Department of Treasury and Finance in December 2013;
- (b) identify all of the programs or services within the SBAs;
- (c) assess each of those programs or services for suitability for corporatisation;
- (d) for those programs or services where corporatisation is not appropriate, to develop or update the Full Cost Attribution (“FCA”) model for pricing analysis of those programs or services;
- (e) determine whether any of the programs or services, within an SBA, reviewed in the FCA pricing analysis constitute a CSO in accordance with the publication titled *“Community Service Obligation Policy and Guidelines for Local Government in Tasmania”* issued by the Department of Premier and Cabinet in November 2000;
- (f) for those programs or services that are a CSO, decide whether to continue to provide the CSO, and if so, to record the funding of the CSO clearly in the Council's budget and in its annual report;
- (g) for the remaining programs or services (if any) that are not suitable for corporatisation and/or are not a CSO, identify those programs or services that would be in the public benefit to offer at a price less than the fully attributed cost (“Public Benefit Program or Service”);
- (h) conduct a public benefit assessment for the Public Benefit Program or Service; and
- (i) apply cost-reflective pricing to those programs or services which are not a CSO and/or a Public Benefit Program or Service when setting the fees and charges.

4. Legislation, Terminology and References

- Competitive Neutrality Principles Agreement 11 April 1995
- *Economic Regulator Act 2009* (Tas)
- *Fees and Charges Policy* (check name and update to reflect this policy once adopted)
- *Identification and Management of Significant Business Activities by Local Government in Tasmania to Comply with Competitive Neutrality Principles*, issued by the Tasmanian Department of Treasury and Finance in December 2013
- *Community Service Obligation Policy and Guidelines for Local Government in Tasmania*, issued by the Department of Premier and Cabinet in November 2000

5. Definitions

Term	Meaning
Competitive Neutrality Costs (CNC)	Costs which would have applied to the activity, had it not been conducted within the umbrella of government.
Corporatisation	Conversion of an SBA into an independent, operating business
Full Cost Attribution (FCA)	The value of all resources consumed by an entity in the provision of that SBA plus Competitive Neutrality Costs. <ul style="list-style-type: none">• Operating costs• Capital costs• Competitive Neutrality Costs
Program or Services	A program or service offered by the Council to the community that forms part of the operation of an SBA.
Significant Business Activity (SBA)	Indicators of Significant Business Activities include: <ul style="list-style-type: none">• operation in a competitive market• market share of the activity• size of the activity within the organisation,

Responsible Officer:	Director City Enablers
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