

CODE OF COMPETITIVE CONDUCT STATEMENT

File No **Budget 2018/19**
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Purpose

This report seeks to identify council's business activities where council has resolved to apply the Code of Competitive Conduct (the Code) and commercialisation requirements and confirm their treatment under the National Competition Policy guidelines.

Operational Plan Linkage

Strategy 8.2 – Maintain the financial sustainability of the Council by implementing rigorous financial management practices across all Council programs.

Background/Discussion

In accordance with the *Local Government Act 2009* (the Act) and the *Local Government Regulation 2012* (the Regulation) Council is required to make certain assessments and disclosures in relation to its 'business' activities. These activities are defined as follows:

Significant Business Activities

The Regulation states that a significant business activity is a business activity which has expenditure exceeding \$13.96 million for water and sewerage combined activities, and \$9.35 million for other business activities. Expenditure is noted as any expenditure to achieve competitive neutrality (excluding depreciation) plus any loan redemption payments.

Section 20 of the Regulation requires the Council to use the financial information from the previous financial year presented to the Local Government's budget meeting to identify each new significant business activity for the financial year.

As part of the 2018/19 budget, Council has resolved that its water and sewerage business activity and waste business activity are significant business activities.

Code of Competitive Conduct

The Act requires Council to decide each financial year (by resolution) whether or not to apply the code of competitive conduct to a business activity prescribed under a regulation.

The Regulation states that a business activity is prescribed if the amount of current expenditure for a financial year is \$328,000 or more (including operational, administrative and overhead, resources costs and depreciation). If Council decides not to apply the code of competitive conduct Council must state the reasons for not applying the code.

Building Certification

The Regulation (section 38) prescribes that any building certification activity of Mackay Regional Council is a prescribed business activity. As Council does not presently conduct a building certification activity, the requirements of this section do not apply.

Roads Activities

The Act (section 47(5)) states that the Local Government must apply the code of competitive conduct to a roads activity. A roads activity is defined to only include road activities which the State or Local Government has put out to tender. Council does not presently perform any such road activities and therefore the requirements of this section do not apply.

Mackay Entertainment & Convention Centre (MECC)

Whilst this activity receives a large component of its funding by trading in goods and services, the overall objective of the Mackay Entertainment and Convention Centre is to promote economic development in the region and to encourage artistic and cultural development within the community. The experience since the establishment of the Centre has been that applying the code of competitive conduct has added an administrative expense without necessarily improving decision-making or the financial results of the activity. Therefore, it is proposed that the code of competitive conduct should not be applied to this activity.

Sarina Sugar Shed

The primary activity of the Sarina Sugar Shed is to promote economic development within the region through tourism. Only a portion of its funding is generated by trading in goods and services. Similar to the MECC, it is anticipated that an increase in administrative expense would occur from the application of the code of competitive conduct, with no measurable improvement in decision-making or the activities financial result. Therefore, it is proposed that the code of competitive conduct should not be applied to this activity.

Other Business Activities

Council does not conduct any other activities which are primarily involved in trading goods and services.

Principles of Community Service Obligations

Community service obligations (CSO) arise when the Council specifically requires a commercialised business unit to carry out operations that are not in the commercial interests of the business activity to do so or alternatively would only deliver at higher prices or through some other form of compensation.

The process for establishing new CSO's by Council business activities is provided below:

- determine the specific policy objective of Council to which the CSO is linked
- propose the CSO after undertaking research into its validity and delivery
- cost the CSO according to an acceptable method
- develop performance measures for the CSO to measure its effectiveness in achieving policy objectives, efficiency of delivery and other impacts

- present the CSO to Council for review prior to its incorporation in the budget; to ensure that an appropriate decision is made on its size and importance
- incorporate the CSO into pricing budgets as a revenue item
- ongoing negotiation and review of performance and size of CSO.

Types of Community Service Obligations

This policy recognises five basic types of Community Service Obligations:

Type CSO	Description
Uniform	Where Council considers it desirable that certain goods and services be supplied to all users at a uniform or affordable price regardless of the cost of the provision.
Concession	Where Council has social welfare objectives to provide concessions to consumers who are considered disadvantaged e.g. pensioner concessions, sporting bodies, charitable organisations etc.
Industry	Where Council may wish to provide incentives to industry, e.g. rate rebates.
Purchasing	Where Council may require business activities to purchase specific goods and services as inputs. This may apply for a number of reasons including economies of scale, maintaining a certain quality or stimulating the local economy.
Other	Where Council may require business activities to abide by environmental, consumer, cultural heritage or some similar policy, which may not usually apply.

Implications of CSO's for Full Cost Pricing (FCP)

The net cost of providing the CSO or additional CSOs are required to be identified as part of the budget process.

As part of this process, the performance of the CSO in achieving policy objectives needs to be reported to Council and the size of the CSO reviewed where appropriate. The method for reporting on the CSO's is to be through the reporting to Council on achievement of the Annual Performance Plan of the commercialised business unit.

Consultation and Communication

Consultation has been undertaken with the appropriate business areas.

Resource Implications

There are internal administrative costs associated with applying the code of competitive conduct, and consultancy fees associated with reviewing NCP processes. The proposed resolution will minimise these costs by focussing the application of National Competition Policy principles to where there is a clear public benefit.

Risk Management Implications

Nil.

Conclusion

This report concludes that the following National Competition Policy reforms should apply for the financial year 2018/19:

Business Activity	Level of NCP Reform
Water and Sewerage	Commercialisation
Waste Services	Commercialisation
MECC	No application of the code of competitive conduct or full cost pricing
Sarina Sugar Shed	No application of the code of competitive conduct or full cost pricing

Officer's Recommendation

THAT Council:

1. Determines that the water and sewerage and waste business activities will continue as significant business activities, and
2. Determines that the code of competitive conduct should not apply to the Mackay Entertainment and Convention Centre activity and the Sarina Sugar Shed activity for the 2018/19 financial year, because Council considers that the costs of applying the code will outweigh the benefits, and the activity has significant non-commercial objectives, and
3. Determines that it does not conduct any other business activities or prescribed business activities.

Attachments

1. Code of Competitive Conduct Statement 2018/19

**MACKAY REGIONAL COUNCIL
BUSINESS ACTIVITY STATEMENT
SIGNIFICANT BUSINESS UNITS
For the year ended 30 June 2019**

	Mackay Water Services 2018/19 \$000	Mackay Waste Services 2018/19 \$000
Operating Revenue		
Services provided to Local Government	1,849	612
Services provided to clients other than Local Government	92,678	26,720
Community Service Obligations	204	47
Total Operating Revenue	94,731	27,379
Operating Expenses	72,135	21,720
Operating Result before tax and dividend	22,596	5,659
Dividend	-	2,745
Tax	-	1,683
Operating Result after tax and dividend	- 300	1,231

Community Service Obligations	Mackay Water Services 2018/19 \$000	Mackay Waste Services 2018/19 \$000
Rebates for Community / Sporting Bodies	204	47