

2021/22 Code of Competitive Conduct - Council Policy

Effective Date	<i>1 July 2021</i>
Policy Owner	<i>Finance</i>
Link to Corporate Plan	<i>Sustainable Organisation</i>
Review Date	<i>June 2022</i>
Related Legislation	<ul style="list-style-type: none">• <i>Local Government Act 2009 - Sections 43 to 48</i>• <i>Local Government Regulation 2012 - Division 5</i>
Related Documents	<i>Nil</i>

Policy Version	Approval Date	Adopted/Approved
<i>1</i>	<i>23/06/2021</i>	<i>Special Meeting of Council Adopt 2021/22 Budget</i>

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1. PURPOSE

To apply the principles of the code of competitive conduct to Council's businesses.

2. SCOPE

Section 45 of the Local Government Act 2009 states that a local government's annual report for each financial year must-

- (a) contain a list of all the business activities that the local government conducted during the financial year; and
- (b) identify the business activities that are significant business activities; and
- (c) state whether or not the competitive neutrality principles was applied to the significant business activities, and if the principle was not applied, the reason why it was not applied; and
- (d) state whether any of the significant business activities were not conducted in the preceding financial year, i.e. whether there are any new significant business activities.

The Local Government Act 2009 defines a business activity as:

trading in goods and services by the local government.

Section 47(7) of the Act requires that

A local government must decide each financial year, by resolution, whether or not to apply the code of competitive conduct to a business activity prescribed under a regulation.

Section 39 of the Local Government Regulation defines a prescribed business activity as one in which the amount of current expenditure for the business activity for the previous financial year is \$340,000 or more. Current expenditure is defined under section 39 of the Local Government Regulation as the total amounts spent in conducting the activity for the year which includes operational costs, administrative and overhead costs, cost of resources and depreciation.

Under section 43 (4) of the Local Government Act 2009, a prescribed business activity becomes a significant business activity of a local government if it is conducted in competition, or potential competition, with the private sector (including off-street parking, quarries, sporting facilities, for example); and meets the threshold prescribed under a regulation. It does not include a building certifying activity, roads activity or library services (section 43 (5)).

Under the regulation, this threshold is expenditure that is at least \$9.700 million unless a local government has a combined water and sewerage business in which case the number of connections must be to greater than 10,000 premises. Council does not have a combined water and sewerage service.

Section 33 of the Local Government Regulation 2012 requires the local government to apply the competitive neutrality principle by removing any competitive advantage or disadvantage, wherever possible and appropriate and promoting efficiency of the use of resources to ensure markets are not unnecessarily distorted.

Council's business activities (on the basis that they trade goods and services), including those that are significant, are:

- Waste Management
- Natural Gas
- Commercial Works
- Water Services (type 2 significant business activity)
- Wastewater Services (type 2 significant business activity)
- Quarry
- Dalby Regional Saleyards, and
- Washdown Bays



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Section 18 (1) of the Local Government Regulation 2012 requires that any new significant business activity must be assessed for possible reform.

Please note that Wastewater has previously been identified as a significant business activity. While its expenditure is less than the threshold, there is no mechanism within the legislation to change it from a Significant Business Activity.

3. POLICY

In accordance with Section 19 of the *Local Government Regulation 2012*, the Code of Competitive Conduct, as set out in section 31 to 39 of the Local Government Regulation 2012, will continue to apply for the 2021-22 financial year to the following Council businesses:

- Waste Management
- Natural Gas
- Commercial Works
- Water Services (significant business activity)
- Wastewater Services (significant business activity)
- Quarry
- Dalby Regional Saleyards, and
- Washdown Bays

