

COMPETITIVE NEUTRALITY COMPLAINTS MANAGEMENT POLICY

Responsible Department:	Corporate and Commercial Services
Responsible Section:	Governance and Risk
Responsible Officer:	Manager Governance and Risk

Objective

This document constitutes a formal mechanism established by Narrabri Shire Council for the handling and management of competitive neutrality complaints.

Introduction

In April 1995, the Council of Australian Governments (COAG) ratified the National Competition Policy.

One of the major components of the National Competition Policy is the principles contained in the *Competition Principles Agreement*.

The Competition Principles Agreement requires the creation of an effective regime to deal with complaints that Council business activities are not competing in the market against private businesses on a “level playing field” and are operating with competitive advantage.

This document has a threefold purpose.

- Firstly, it may be used by members of the public and the owners of businesses competing in the same market as Narrabri Shire Council to submit complaints to the Council alleging that the Council is operating with net competitive advantages as a result of the Council’s ownership of a business activity or service.
- Secondly, it will provide a formal mechanism for the investigation, determination and advice of the outcome of a complainant alleging that non regulatory service functions discharged or business activities operated by the Council are operating with competitive advantage over other private businesses.
- Thirdly, it will serve to ensure that Council staff continuously monitor non regulatory services provided by the Council operate under the principles of Competitive Neutrality.

Policy

1. The Competitive Neutrality Principle

- 1.1. Competitive neutrality is one of the principles of National Competition Policy which is applied throughout Australia at all levels of Government, including Local Government. Competitive neutrality is based on the concept of a “level playing field” for competitors in a market, be they public or private sector competitors.
- 1.2. Government business organisations, whether they be Commonwealth, State or Local Government, should operate without net competitive advantages over businesses as a result of their public ownership.

- 1.3. Where Narrabri Shire Council competes in the market place with other private businesses, the Council will do so on the basis that it does not utilise its public position to gain an unfair advantage over private businesses who may be in competition with the Council.

2. What is a Competitive Neutrality Complaint?

- 2.1. A complaint regarding competitive neutrality is determined as:
- (a) A complaint that Narrabri Shire Council has not met its requirements under the National Competition Policy Statement of Pricing and Costing for Council Businesses - a Guide to Competitive Neutrality and includes concern that the Council has not established an effective Competitive Neutrality Complaints Management System.
 - (b) A complaint that Narrabri Shire Council has not abided by the spirit of competitive neutrality in the conduct of Council business activities.
- 2.2. A competitive neutrality complaint is not:
- (a) A complaint regarding the level of service provided by a business activity such as water quality, a mobile garbage bin not collected or the condition of a road or footpath
 - (b) A complaint regarding the cost of the service, unless it is that Council has not costed the service to take competitive neutrality into account
 - (c) A complaint regarding the trade practices laws and their application to the Council

3. Council Business Activities Subject to Competitive Neutrality

- 3.1. **Category 1 Business Activities**
- (a) The following Narrabri Shire Council owned and operated activities have been categorised as *Category 1 Businesses* and are subject to competitive neutrality. Each business activity has an annual gross operating income over \$2M per year.
- 3.2. **Category 1**
- (a) Narrabri Council Water Supply;
 - (b) The Crossing Theatre.
- 3.3. **Category 2**
- (a) Narrabri Shire Council Sewerage Services
 - (b) All other commercial operations.

4. How to Lodge a Competitive Neutrality Complaint

- 4.1. A competitive neutrality complaint should be made in writing;

Post to: Narrabri Shire Council

PO Box 261

NARRABRI NSW 2390

Fax to: (02) 6799 6888

Email to: council@narrabri.nsw.gov.au.

Time Limits

- 4.2. Competitive neutrality complaints will be acknowledged within 7 working days and responded to by Narrabri Shire Council within 30 days of the date of submission of the complaint.
- 4.3. If the competitive neutrality complaints require detailed investigation, the complainant will be informed of progress at regular intervals.

Remedies

- 4.4. Competitive neutrality complaints which establish that Narrabri Shire Council:
 - (a) has not met its requirements under the National Competition Policy Statement or *Pricing and Costing for Council Businesses - a Guide to Competitive Neutrality*; OR
 - (b) has not abided by the spirit of competitive neutrality in the conduct of Council business activities,will result in changes to the Council's business practice to ensure future and continued compliance with the principle of competitive neutrality.

Alternatives

- 4.5. Any complainant dissatisfied with Narrabri Shire Council's determination of a competitive neutrality complaint may refer the complaint to either the:
 - (a) NSW Office of Local Government;
 - (b) NSW Ombudsman;
 - (c) NSW Independent Commission Against Corruption (ICAC); or
 - (d) Australian Competition and Consumer Commission (ACCC).

5. Who Will Be Dealing with The Competitive Neutrality Complaint

- 5.1. The Narrabri Shire Council Public Officer will diligently, fairly and honestly investigate all competitive neutrality complaints. The Public Officer will submit an investigation report to the Council's General Manager within 21 days of the competitive neutrality complaint being received. Where the complaint is justified, such report will contain recommendations for changes to the Council's business activities practice to ensure future and continued compliance with the principle of competitive neutrality.
- 5.2. A response to the competitive neutrality complaint will be provided by the General Manager within 30 working days of the date of submission of the complaint.
- 5.3. The Public Officer performs a role which is independent and separated from the management and control of Council business activities.

6. Confidentiality

- 6.1. All competitive neutrality complaints received will be determined by the Council in the strictest confidence.

References

- Competition Principles Agreement – Council of Australian Governments (COAG).
- Measure by the adherence to the Policy.

History

Minute Number	Meeting Date	Description of Change
209/2013	April 2, 2013	Adopted
164/2017	August 15, 2017	Reviewed
	September 1, 2021	Rebranded
336/2022	October 18, 2022	Endorsed for Public Exhibition
362/2022	November 22, 2022	Adopted