

20150625 Item 5.6.2 Report National Competition Policy Requirements for Significant and other Business Activities in 2015-2016

Objective Reference:	A193010 Reports and Attachments (Archives)
Attachment:	A193010 Register of Business Activities
Authorising Officer:	Linnet Batz Chief Financial Officer
Responsible Officer:	Grant Tanham-Kelly Service Manager Financial Management
Report Author:	Helen Griffith Management Accountant Commercial Business

PURPOSE

The purpose of this report is to identify activities that are business activities for 2015-2016 based on the current financial forecasts for 2014-2015 financial year and to review the application of the Code of Competitive Conduct (CoCC) to business activities across Redland City Council.

The financial statements containing the estimated costs of the significant business activity and other business activities will be included in the 2015-2016 Budget Publication for adoption at the Special Budget Meeting 25th June 2015.

BACKGROUND

Section 47(7) of the Local Government Act 2009 states 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.

Additionally, section 34(1) of the Local Government Regulation 2012 requires that a Local Government's budget must contain an estimated activity statement for each business activity.

As part of the annual budget deliberations, Council considered the change to the threshold for prescribed business activities and also the desired focus on commercial opportunities.

ISSUES

Redland City Council is required to consider the legislated financial thresholds to ascertain whether new business activities will be introduced for the 2015-2016 financial year in line with current legislative requirements.

The Department of Local Government, Community Recovery and Resilience (The Department) provides an annual bulletin to update the thresholds.

The latest Departmental thresholds published for the 2015-2016 financial year:

For Significant Business Activities:

- water and sewerage combined activities - \$13,600,000
- other activities - \$9,000,000

For Prescribed Business Activities \$318,000

Of note, these thresholds are outlined at section 19 of the *Local Government Regulation 2012* and are anticipated to be indexed early in the 2015-2016 financial year, no announcement to date.

In deciding whether an activity should be a new Significant or Prescribed Business Activity for the 2015-2016 financial year, local governments must consider the operating expenditure for the 2014-2015 financial year plus any depreciation included therein and any expenditure included therein to achieve competitive neutrality which is not actually incurred by the local government plus any loan redemption payments in that year.

The following table provides a review of the threshold implications and provides recommendation regarding the applicability of the framework:

Activity	Classification	Comments
Redland Water	Significant Business Activity that is commercialised	No change from 2014-2015
Waste Operations & Planning 'RedWaste'	Significant Business Activity	No change from 2014-2015
Redland Performing Arts Centre (RPAC)	Prescribed Business Activity subject to the code of competitive conduct	Reviewed in workshop 7 April 2015 and recommended to remove from CoCC
Building Certification	Prescribed Business Activity subject to the code of competitive conduct	No change from 2014-2015

During the budget deliberations for 2015-2016 financial year, Council determined to no longer classify Redland Performing Arts Centre (RPAC) as a prescribed business activity subject to the code of competitive conduct as RPAC typically operates at a loss which is contrary to standard Commercial principles.

STRATEGIC IMPLICATIONS

An annual review of the Long Term Financial Strategy with Councillors and the Executive Leadership was completed in December 2014 resulting in the 2015-2025 Financial Strategy which includes the consideration of long term planning to adequately invest in infrastructure sustainability.

Council also have in place a number of policies to provide a framework to ensure long term financial and infrastructure sustainability for the community. These policies include Application of Dividends and Tax Equivalent Payments, Constrained Cash Reserves, Capital Works Prioritisation, Revenue, Debt, Investment, Asset Management and Procurement Policies.

Legislative Requirements

Section 47(7) of the Local Government Act 2009 states 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. This report contains a proposal for the 2015-2016 financial year that will be reviewed on the completion of the 2014-2015 end of year financial statements.

Risk Management

Risks and opportunities for business activities are discussed as part of both the annual review of the Long Term Financial Strategy and also the annual budget workshops.

Financial

There are no financial implications impacting Council as a result of this report – all business activities are budgeted for and operating statements are provided in the budget publication.

People

Nil impact expected as the purpose of this document is to propose the business activities for the 2015-2016 financial year in accordance with the legislative requirements.

Environmental

Nil impact expected as the purpose of this document is to propose the business activities for the 2015-2016 financial year in accordance with the legislative requirements.

Social

Nil impact expected as the purpose of this document is to propose the business activities for the 2015-2016 financial year in accordance with the legislative requirements.

Alignment with Council's Policy and Plans

This report has a relationship with the following items of the 2015-2020 Corporate Plan:

8. Inclusive and Ethical Governance: Deep engagement, quality leadership at all levels, transparent and accountable democratic processes and a spirit of partnership between the community and Council will enrich residents' participation in local decision-making to achieve the community's Redlands 2030 vision and goals.
- 8.2 Council produces and delivers against sustainable financial forecasts as a result of best practice Capital and Asset Management Plans that guide project planning and service delivery across the city.

CONSULTATION

Finance Officers, the Chief Financial Officer and the Executive Leadership Group have reviewed the existing business activities during 2014 on a biannual basis. As part of the annual budget development Council discussed the business activities during a workshop held on 7th April 2015.

OPTIONS

1. That Council resolve as follows:
 1. That Redland Water continues to be classified as a significant business activity to be run as a commercial business unit and Waste Operations & Planning (RedWaste) continues to be classified as a significant business activity; and
 2. To apply the Code of Competitive Conduct to the Building Certification Business Unit
 3. To remove Redland Performing Arts Centre (RPAC) from the application of Code of Competitive Conduct for the reason that it typically operates at a loss.
2. That Council resolves to seek further information.

OFFICER'S RECOMMENDATION

That Council resolves as follows:

1. That Redland Water continues to be classified as a Significant Business Activity to be run as a Commercial Business Unit and Waste Operations & Planning (RedWaste) continues to be classified as a Significant Business Activity;
2. To apply the Code of Competitive Conduct to the Building Certification Business Unit; and
3. To remove Redland Performing Arts Centre (RPAC) from the application of Code of Competitive Conduct for the reason that it typically operates at a loss.

REDLAND CITY COUNCIL - REGISTER OF BUSINESS ACTIVITIES TO WHICH THE COMPETITIVE NEUTRALITY PRINCIPLE APPLIES

Section 56 of the LG Regulation 2012, requires Council to hold a Register of Business Activities

“Section 56 Register

(1) A local government must establish a register of business activities to which the competitive neutrality principle applies.

(2) The register must state the following—

(a) Business activities to which the local government has applied the competitive neutrality principle, and the day from which the competitive neutrality principle applied to each business activity;

(b) Business activities to which the code of competitive conduct applies, and the date from which the code applied to each business activity;

(c) a list of-

(i) Current investigation notices for competitive neutrality complaints; and

(ii) The business activities to which the complaints relate; and

(iii) The local government’s responses to the QCA’s recommendations on the complaints.

Business Activity	Business Activity	Competitive Neutrality Commenced	Code of Competitive Conduct Commenced	QCA as a Referee	Investigation Notices for Complaints	Decision on Referees Recommendations
Water & Wastewater Services	Significant	1 July 1998	1 July 1998	Nil	Nil	
Waste Management Services	Significant	1 July 1998	1 July 1998	Nil	Nil	
Building Certification Services	Prescribed	1 July 2008	1 July 2008	Nil	Nil	