



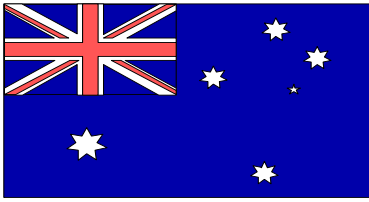
Tamworth Regional Council
Country Music Capital



Competitive Neutrality

**Complaints
Management Policy.**

1 INTRODUCTION



In April 1995, the Council of Australian Governments (COAG) ratified the National Competition Policy. The Policy is aimed at increasing consumer and business choice, reducing production and transportation costs in an effort to lower prices for goods and services, and creating an overall business environment in which to improve Australia's international competitiveness.

One of the major components of the National Competition Policy are the principles contained in the *Competition Principles Agreement*. The Agreement is aimed at encouraging, efficient public sector (government) service provision by exposing public (government) business functions to competition, where appropriate. The Agreement provides a policy framework that facilitates the creation of competitive markets for public sector goods and services, where appropriate.

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 constitutes a formal mechanism established by Tamworth Regional Council for the handling and management of competitive neutrality complaints. By establishing clear guidelines and procedures for the handling and management of competitive neutrality complaints, the Council will be in a stronger position to ensure:

- non regulatory service functions operate under similar competitive pressures to those experienced by the private sector; and
- services provided are relevant, cost effective and operationally efficient.

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 Tamworth Regional 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.

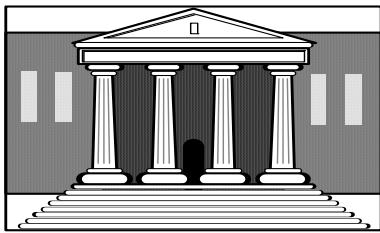
2 THE COMPETITIVE NEUTRALITY PRINCIPLE



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. 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.

Where Tamworth Regional 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.

3 WHAT IS A COMPETITIVE NEUTRALITY COMPLAINT ?

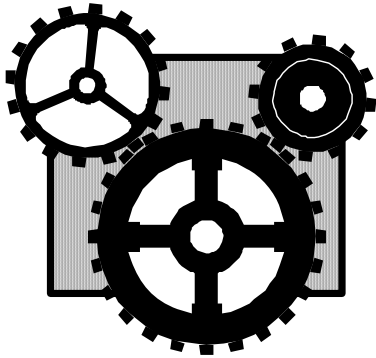


3 What is a Competitive Neutrality Complaint ?

A complaint regarding competitive neutrality **IS**:

- A complaint that Tamworth Regional 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.
- A complaint that Tamworth Regional Council has not abided by the spirit of competitive neutrality in the conduct of Council business activities.
- A competitive neutrality complaint is **NOT**:
- A complaint regarding the level of service provided by a business activity such as water quality inadequate, a mobile garbage bin not collected or the condition of a road or footpath
- A complaint regarding the cost of the service, unless it is that Tamworth Regional Council has not costed the service the service to take competitive neutrality into account
- A complaint regarding the trade practices laws and their application to the Tamworth Regional Council.

4 COUNCIL BUSINESS ACTIVITIES SUBJECT TO COMPETITIVE NEUTRALITY



Category 1 Business Activities

The following Tamworth Regional 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.

Tamworth Regional Airport
Tamworth Regional Council Water Supply
Tamworth Regional Council Wastewater Services
Tamworth Regional Council Waste Management Services

Council has adopted the following attributes in respect of Category 1 Business Activities:

- A Corporatisation Model
- Full cost attribution including
 - tax equivalent regime payments
 - debt guarantee fees, where the business benefits from Council's borrowing position by comparison with commercial rates
 - return on capital invested
- Identified any subsidies paid to the business
- Operate within the same regulatory framework as private businesses

Council has adopted the following attributes in respect of Category 2 Business Activities:

5 HOW TO LODGE A COMPETITIVE NEUTRALITY COMPLAINT



A competitive neutrality complaint should be made in writing using a standard form available for that specific purpose from the Customer Service Centre at the Tamworth Regional Council Administrative Headquarters, Ray Walsh House, Peel Street, Tamworth.

Complaints may also be made over the counter and by telephone. Council's Public Officer will provide advice and assistance with the preparation and submission of competitive neutrality complaints.

5.1 Time Limits

Competitive neutrality complaints will be acknowledged within 7 days and responded to by Tamworth Regional Council within 30 days of the date of submission of the complaint.

If the competitive neutrality complaints requires detailed investigation, the complainant will be informed of progress at regular intervals.

5.2 Remedies

Competitive neutrality complaints which establish that Tamworth Regional Council:

(i) has not met its requirements under the National Competition Policy Statement or *Pricing and Costing for Council Businesses - a Guide to Competitive Neutrality*;

OR

(ii) 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.

5.3 Alternatives

Any complainant dissatisfied with Tamworth Regional Council's determination of a competitive neutrality complaint may refer the complaint to either the:

- NSW Department of Local Government; or
- NSW Ombudsman; or
- NSW Independent Commission Against Corruption (ICAC); or
- Australian Competition and Consumer Commission (ACCC).

Alternatively, the competitive neutrality complaint may be referred direct to one of these agencies and Tamworth Regional Council bypassed.

6 WHO WILL BE DEALING WITH THE COMPETITIVE NEUTRALITY COMPLAINT



The Tamworth Regional 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.

A response to the competitive neutrality complaint will be provided by the General Manager within 30 days of the date of submission of the complaint.

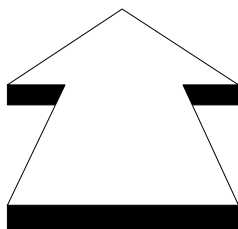
The Public Officer performs a role which is independent and separated from the management and control of Council business activities.

7 CONFIDENTIALITY

CONFIDENTIAL

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

8 FURTHER INFORMATION



Further information or advice may be obtained by contacting the Tamworth Regional Council Public Officer between 8.00 am and 5.00 pm on telephone (02) 67554438. All enquiries or requests for further information will be maintained in the strictest confidence.

ADDRESS:

.....

.....

DATE:

.....

The General Manager
TAMWORTH REGIONAL COUNCIL
PO Box 555
TAMWORTH NSW 2340

Dear Sir

I hereby submit a complaint that Tamworth Regional Council is operating a business activity and not observing the principle of competitive neutrality contrary to the National Competition Policy Principles Agreement.

Council Business Activity:

.....(*Identify Business Activity*)

Nature of Competitive Neutrality Non Compliance:

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.....(*State Nature of Complaint*)

Would you investigate my complaint and advise me of what action Council will take to implement the principle of competitive neutrality in the operation of the abovementioned Council business activity.

Yours faithfully

Signed:.....

Tamworth Regional Council Complaints Management Policy Flow Chart

