

**FILE NO: PSC2013-04570**

**TITLE: MANAGEMENT OF COMPETITIVE NEUTRALITY COMPLAINTS**

**POLICY OWNER: GOVERNANCE SECTION MANAGER**

## **1. PURPOSE:**

- 1.1 The purpose of the Management of Competitive Neutrality Complaints Policy is to ensure Port Stephens Council (Council) has a framework to manage and investigate complaints received concerning competitive neutrality.
- 1.2 Any complaints outside the limits of this policy will be managed under Council's Complaints Handling Policy.

## **2. CONTEXT/BACKGROUND:**

- 2.1 This policy was adopted to comply with the former Division of Local Government requirements (now Office of Local Government).
- 2.2 Council recognises that the market has changed somewhat since the first adoption of the policy, and now has a number of business units actively operating in competition with the private sector. Council looks to ensure that the operations of Council are open and transparent when conducting commercial activities within the limits of the law, whilst maintaining a commercial business approach.

## **3. SCOPE:**

- 3.1 Council is committed to the aims and objective of the National Competition Policy.
- 3.2 Council will remain accountable for its business to the community. The elected Council and staff will continue to have responsibility for ensuring that a service is being conducted effectively and that the Rates are being used responsibly.
- 3.3 All complaints should be forwarded to the General Manager. Complaints will generally be managed by the Governance Section Manager, subject to the General Manager direction. Should a complaint be investigated, a report will be prepared for the General Manager.
- 3.4 Staff investigating competitive neutrality complaints will not be involved in the area subject to the complaint.

- 3.5 A full response will be provided to the complainant following an investigation, providing details of the findings.
- 3.6 Should an investigation not be required a response will be provided, giving details of why an investigation did not proceed.
- 3.7 Alternative avenues are available for making competitive neutrality complaints – such as the Independent Commission Against Corruption (ICAC), the NSW Ombudsman or the Australian Competition and Consumer Commission (ACCC).

## 4. DEFINITIONS:

- 4.1 An outline of the key definitions of terms included in the policy.

ACCC	means Australian Competition and Consumer Commission.
Competitive neutrality complaint	A complaint that Council has not met its requirements under the Policy or 'Pricing and Costing for Council Business – A Guide to Competitive Neutrality'. This includes a concern that Council has not established an effective complaints handling mechanism; and a complaint that council has not abided by the spirit of competitive neutrality in the conduct of a business activity.
Competitive neutrality complaint is not	A complaint regarding the level of service provided by a business activity (ie reserve requiring maintenance, a garbage bin not collected). A complaint regarding the cost of the service, unless it is that council has not costed its service to take competitive neutrality into account. A complaint regarding the trade practices laws and their application to councils. Such complaints should be managed under Council's Complaint Handling Policy.
Council	means Port Stephens Council.
ICAC	means Independent Commission Against Corruption.

## 5. STATEMENT:

5.1 Council is committed to:

- a) Taking all reasonable steps to ensure that when conducting business in the market place it will not use its public position to gain an unfair advantage over a private sector competitor.
- b) Exercising its powers appropriately within the market.
- c) Be responsive to the complaints from the community.
- d) Resolving, without delay, all proven complaints.

## 6. RESPONSIBILITIES:

6.1.1 The General Manager, group managers, section managers and coordinators are responsible for complying with the policy.

6.1.2 The Governance Section Manager is implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.

## 7. RELATED DOCUMENTS:

7.1.1 Competition and Consumer Act 2010 (Cth).

7.1.2 Complaints Handling Policy.

## CONTROLLED DOCUMENT INFORMATION:

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<b>Adoption date</b>	23 December 1997.		

## VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	23 December 1997	Assistant General Manager	Adopted by Council.	1472
2.0	12 November 2013	Executive Officer	Adopted by Council.	323
2.1	24 October 2017	Governance Manager	Transferred policy to new corporate policy template. Reviewed the policy with a minor administrative amendment.	259
2.2	29 September 2019	Governance Section Manager	Reviewed the policy, included numbering to each paragraph and updated the version control. Updated title of policy owner to Governance Section Manager. 2.1 – Updated background reference to former Division of Local Government and Office of Local Government. 3.3 – Replaced Executive Officer title with Governance Section Manager. 4.1 – Inserted ‘means’ for ACCC and ICAC. 6.1.2 – Inserted ‘Section’ in title. 7.1.2 – Corrected spelling error ‘handling’.	170
2.3	24 August 2021	Governance Section Manager	Reviewed the policy, included numbering to each paragraph and updated the version control. 2.1 – removed original date adopted. 4.1 – updated definitions.	236