

TO ALL LOCAL GOVERNMENTS

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CIRCULAR N<sup>o</sup> 824

**NATIONAL COMPETITION POLICY (NCP) REVIEWS - COMPETITIVE NEUTRALITY AND LOCAL LAWS**

To assist local governments in confirming their compliance with the requirements of National Competition Policy the attached forms have been prepared for your information, completion and return to the Department.

In each case three versions of the form are provided; the first is an explanation of how to complete the form, the second is an example; and the third is a blank form for your copying and use.

1. Competitive Neutrality

Local governments would be aware of the requirement to undertake reviews by 30 June 1997. This applies for Category One local governments (with an operating expenditure greater than \$2 million) and activities with a user-pays income of over \$200,000.

The attached form should be completed for the reviews already undertaken and for any which have yet to be completed. These need to be forwarded to this Department by 17 January 1998 at the latest. The forms should also be used for any reviews undertaken in future by both Category One and Category Two local governments.

2. Local Laws

The attached form should be submitted to the Minister (or Department) at the time that a proposed local law is submitted under section 3.12 (3)(b) of the Local Government Act 1995. This will indicate to the State Government that any competition policy restrictions have been assessed during the preparation of the proposed local law.

Also, where any local laws containing restrictions on competition have been made since 1 January 1997 please complete the form or forms to show how these restrictions are in the public interest. These forms also need to be forwarded to the Department by 17 January 1998.

All of the above information will be used to demonstrate local government's compliance with the National Competition Policy requirements. It will be used in conjunction with the information to be included in annual reports as outlined in Circular N<sup>o</sup> 823.

A handwritten signature in black ink, appearing to read 'John Lynch', written in a cursive style.

John Lynch  
EXECUTIVE DIRECTOR

5 December 1997

NATIONAL COMPETITION POLICY – CLAUSE 7  
COMPETITIVE NEUTRALITY EXECUTIVE SUMMARY

**LOCAL GOVERNMENT:**

<b>ACTIVITY:</b> Eg waste collection, childcare centre
<b>Review conducted by:</b> was the review undertaken internally or by a consultant?
<b>People/groups consulted:</b> who was consulted in undertaking the review?
<b>Date review completed:</b>
<b>Cost of Review:</b>
<p><b>Competitive advantage 1:</b> list the major competitive advantage identified in the review</p> <p><i>Benefits of removing it:</i></p> <ul style="list-style-type: none"> <li>• identify the main benefits of removing the advantage</li> <li>•</li> </ul> <p><i>Costs of removing it:</i></p> <ul style="list-style-type: none"> <li>• identify the main costs of removing the advantage</li> <li>•</li> </ul>
<p><b>Competitive advantage 2:.....</b></p> <p><i>Benefits...</i> [repeat this process for all other major advantages]</p> <p><i>Costs...</i></p>
<p><b>Competitive disadvantage 1:</b> list the major competitive disadvantage identified</p> <p><i>Benefits of removing it:</i></p> <ul style="list-style-type: none"> <li>• identify the main benefits of removing the disadvantage</li> <li>•</li> </ul> <p><i>Costs of removing it:</i></p> <ul style="list-style-type: none"> <li>• identify the main costs of removing it</li> <li>•</li> </ul>
<p><b>Competitive disadvantage 2:....</b></p> <p><i>Benefits:...</i> [repeat this process for all other major advantages]</p> <p><i>Costs:...</i></p>
<p><b>Overall Conclusion and Recommendations</b></p> <p>State the conclusion of the weighing of the benefits and costs of removing <b>each</b> competitive advantage and disadvantage. List the recommendation of whether or not the review found that the competitive advantage or disadvantage should be removed for each case.</p>
<p><b>Implementing Recommendations</b></p> <p>Provide a statement of the approach to be taken to implement recommendations. For example are the advantages/disadvantages to be counteracted through removing certain advantages and disadvantages (for example through imposing tax equivalents, or subjecting the activity to regulations from which it was previously exempt).</p>

NATIONAL COMPETITION POLICY – CLAUSE 7  
COMPETITIVE NEUTRALITY EXECUTIVE SUMMARY

NATIONAL COMPETITION POLICY – CLAUSE 7  
COMPETITIVE NEUTRALITY EXECUTIVE SUMMARY

**LOCAL GOVERNMENT:** Redgum Shire

<b>ACTIVITY:</b> Childcare centre
<b>Review conducted by:</b> The review was conducted by Smart Consulting.
<b>People/groups consulted:</b> The parents of children at the childcare centre and the other childcare centre operators.
<b>Date review completed:</b> 30 June 1997
<b>Cost of Review:</b> \$3 000
<p><b>Competitive advantage 1:</b> Centre does not pay rates</p> <p><i>Benefits of removing it:</i></p> <ul style="list-style-type: none"> <li>● The council childcare centre will be on equal footing with the private sector.</li> <li>● Everyone in the community will have equal access to childcare services (the subsidy to a small group of parents will be removed and can be used for the benefit of the whole community).</li> </ul> <p><i>Costs of removing it:</i></p> <ul style="list-style-type: none"> <li>● The price of the service will rise, making parents who use the centre financially worse off.</li> </ul>
<p><b>Competitive advantage 2:</b> Centre does not pay taxes (sales tax, land tax)</p> <p><i>Benefits of removing it:</i></p> <ul style="list-style-type: none"> <li>● Private sector operators are not disadvantaged.</li> <li>● Everyone in the community will have equal access to childcare services (the subsidy to a small group of parents will be removed and can be used for the benefit of the whole community).</li> </ul> <p><i>Costs of removing it:</i></p> <ul style="list-style-type: none"> <li>● The price of the service will rise, making parents who use the centre financially worse off.</li> </ul>
<p><b>Competitive disadvantage 1:</b> The centre pays the electricity bill for the infant health centre.</p> <p><i>Benefits of removing it:</i></p> <ul style="list-style-type: none"> <li>● The centre will not be at a disadvantage in comparison to other providers.</li> <li>● The costs of the infant health centre and the childcare centre will be more transparent.</li> </ul> <p><i>Costs of removing it:</i></p> <ul style="list-style-type: none"> <li>● The Council will have to meet the cost of the electricity bill.</li> </ul>
<p><b>Overall Conclusions and Recommendations</b></p> <p><i>Advantage 1:</i> The advantage should be removed and the centre should pay rates to the Council.</p> <p><i>Advantage 2:</i> The advantage should be removed and the centre should pay tax equivalents to the Council.</p> <p><i>Disadvantage 1:</i> The disadvantage should be removed and the Council should pay the electricity bill for the infant health centre.</p>

NATIONAL COMPETITION POLICY – CLAUSE 7  
COMPETITIVE NEUTRALITY EXECUTIVE SUMMARY

***Implementing Recommendations***

The competitive advantages will be removed by the childcare centre paying rates and equivalents for land tax and sales tax to the Council. The competitive disadvantage is to be removed by the council paying the electricity bill for the infant health centre. These reforms are to be introduced by June 1998.

NATIONAL COMPETITION POLICY – CLAUSE 7  
COMPETITIVE NEUTRALITY EXECUTIVE SUMMARY

**LOCAL GOVERNMENT:**

<b>ACTIVITY:</b>
<i>Review conducted by:</i>
<i>People/groups consulted:</i>
<i>Date review completed:</i>
<i>Cost of Review:</i>
<b>Competitive advantage 1:</b> <i>Benefits of removing it:</i> <ul style="list-style-type: none"><li>●</li><li>●</li></ul> <i>Costs of removing it:</i> <ul style="list-style-type: none"><li>●</li><li>●</li></ul>
<b>Competitive advantage 2:</b> <i>Benefits of removing it:</i> <ul style="list-style-type: none"><li>●</li><li>●</li></ul> <i>Costs of removing it:</i> <ul style="list-style-type: none"><li>●</li><li>●</li></ul>
<b>Competitive disadvantage 1:</b> <i>Benefits of removing it:</i> <ul style="list-style-type: none"><li>●</li><li>●</li></ul> <i>Costs of removing it:</i> <ul style="list-style-type: none"><li>●</li><li>●</li></ul>
<b>Competitive disadvantage 2:</b> <i>Benefits of removing it:</i> <ul style="list-style-type: none"><li>●</li><li>●</li></ul> <i>Costs of removing it:</i> <ul style="list-style-type: none"><li>●</li><li>●</li></ul>

NATIONAL COMPETITION POLICY – CLAUSE 7  
COMPETITIVE NEUTRALITY EXECUTIVE SUMMARY

<p><b><i>Overall Conclusions and Recommendations</i></b></p> <p>Advantage 1:.....</p> <p>Advantage 2:.....</p> <p>Disadvantage 1:.....</p> <p>Disadvantage 2:.....</p> <hr/> <p><b><i>Implementing Recommendations</i></b></p>
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Note: If there are more advantages and disadvantages, add further boxes as required.

NATIONAL COMPETITION POLICY – CLAUSE 7  
LOCAL LAW REVIEW EXECUTIVE SUMMARY

**LOCAL GOVERNMENT:**

TITLE:		
NEW LOCAL LAW <input type="checkbox"/>	REPEAL OF LOCAL LAW <input type="checkbox"/>	AMENDMENT TO IMPLEMENT NCP <input type="checkbox"/>
OTHER AMENDMENT TO LOCAL LAW <input type="checkbox"/>	NO AMENDMENT TO LOCAL LAW <input type="checkbox"/>	
<p><b><i>Review Conduct</i></b></p> <ul style="list-style-type: none"> <li>• Who conducted the review? (eg local government or consultant)</li> <li>• Who has been consulted? (include consultation prior to 3.12 advertising)</li> <li>• Date review completed (or date consultation completed for reviews sent in as part of 3.12 advertising)</li> <li>• Cost of review</li> </ul>		
<p><b><i>Restrictions on Competition</i></b></p> <ul style="list-style-type: none"> <li>• List restrictions on competition contained in the legislation.</li> <li>• If there are none, no further information is required.</li> </ul>		
<p><b><i>Effects of the Restrictions</i></b></p> <ul style="list-style-type: none"> <li>• List the main effects of the restrictions (both positive and negative)</li> </ul>		
<p><b><i>Assessing the Benefits and Costs of the Restrictions</i></b></p> <ul style="list-style-type: none"> <li>• State the conclusion of the public benefit test ie whether or not the restrictions on competition are in the public interest or not.</li> </ul>		
<p><b><i>Alternative Means of Achieving Desired Outcome</i></b></p> <ul style="list-style-type: none"> <li>• Outline the alternatives considered and their effectiveness.</li> <li>• State the conclusion reached in regard to the suitability of alternatives.</li> </ul>		
<p><b><i>Overall Conclusion and Recommendations</i></b></p> <ul style="list-style-type: none"> <li>• State the overall conclusion – this entails bringing together the conclusions of the assessment of costs and benefits and of alternative means. List the recommendations.</li> </ul>		
<p><b><i>Implementing Recommendations</i></b></p> <ul style="list-style-type: none"> <li>• Provide a statement of the approach to be taken to implement recommendations.</li> </ul>		

**Notes:**

*Consultation Process:* 3.12 advertising should also invite comments on competition issues.

NATIONAL COMPETITION POLICY – CLAUSE 7  
LOCAL LAW REVIEW EXECUTIVE SUMMARY

**LOCAL GOVERNMENT:** Redgum Shire

<b>TITLE:</b> <i>TRADING IN PUBLIC PLACES LOCAL LAW AMENDMENT</i>		
NEW LOCAL LAW <input type="checkbox"/>	REPEAL OF LOCAL LAW <input type="checkbox"/>	AMENDMENT TO IMPLEMENT NCP <input checked="" type="checkbox"/>
OTHER AMENDMENT TO LOCAL LAW <input type="checkbox"/>	NO AMENDMENT TO LOCAL LAW <input type="checkbox"/>	
<b><i>Review Conduct</i></b>		
<p>The review of <i>Trading in Public Places Local Law</i> was conducted by Smith Consulting. For the review, the consultants sought comments from stakeholders – Redgum Chamber of Commerce, Redgum Progress Association and current licence holders. Consultation was completed on 12/11/97. Public comments will be sought during 3.12 advertising. To date the review has cost \$2 000.</p>		
<b><i>Restrictions on Competition</i></b>		
<p>The review of <i>Trading in Public Places Local Law</i>, identified a number of restrictive provisions relating to licensing. The licensing requirement provides the Council with considerable flexibility in its decision to grant a licence. For example, the Council can consider: any relevant policy; the desirability of the proposed activity; its location; and circumstances. In attaching conditions to licences, the Council can specify requirements relating to: the place of trading; time of trading; type of vehicle or stand and the types of goods and services that can be traded.</p>		
<b><i>Effects of the Restrictions</i></b>		
<p>These provisions restrict competition by restricting business entry, restricting business operations and discriminating between firms or consumers. They protect established businesses from competition from traders who do not incur the same overheads because they do not need to maintain fixed premises and comply with local planning regulations.</p>		
<b><i>Assessing the Benefits and Costs of the Restrictions</i></b>		
<p>The report found that the overall cost to the community of restricting competition and consumer choice outweighs the benefits attributable to the restrictions. These restrictions are not therefore in the public interest and the Local Law should be amended.</p>		
<b><i>Alternative Means of Achieving Desired Outcome</i></b>		
<p>Unrestricted street trading could take place in specific locations set aside both in and out of the CBD which are not in the immediate proximity of local traders offering similar goods or services.</p>		
<b><i>Overall Conclusion and Recommendation</i></b>		
<p>The conclusion of the review was that the Local Law should be amended to remove the licensing provision from specified locations. Areas are to be designated for street traders to operate without licenses.</p>		
<b><i>Implementing Recommendations</i></b>		
<p>The amendment to the <i>Trading in Public Places Local Law</i> implements the findings of this review and lessens the restrictions on competition.</p>		

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LOCAL LAW REVIEW EXECUTIVE SUMMARY

**LOCAL GOVERNMENT:**

TITLE:		
NEW LOCAL LAW <input type="checkbox"/>	REPEAL OF LOCAL LAW <input type="checkbox"/>	AMENDMENT TO IMPLEMENT NCP <input type="checkbox"/>
OTHER AMENDMENT TO LOCAL LAW <input type="checkbox"/>	NO AMENDMENT TO LOCAL LAW <input type="checkbox"/>	
<i>Review Conduct</i>		
<i>Restrictions on Competition</i> <ul style="list-style-type: none"><li>•</li><li>•</li><li>•</li></ul>		
<i>Effects of the Restrictions</i>  Costs:  Benefits:		
<i>Assessing the Benefits and Costs of the Restrictions</i>		
<i>Alternative Means of Achieving Desired Outcome</i>		
<i>Overall Conclusion and Recommendations</i>		
<i>Implementing Recommendations</i>		

NATIONAL COMPETITION POLICY – CLAUSE 7  
LOCAL LAW REVIEW EXECUTIVE SUMMARY

*Notes:*

**New Local Law:** An executive summary must be submitted to the Department of Local Government with the proposed local law as part of the consultation process. If the local law does not contain any restrictions on competition, this should be indicated in the 'Restrictions on competition' box and no further action is necessary.

**Repeal of Local Law:** If a local law is to be repealed, this should be indicated by marking the appropriate box. Restrictions on competition contained in the repealed local law should be noted.

**Amendment to Implement NCP:** This refers to amendments to a local law to implement changes recommended in a NCP local law review. In this situation it is necessary to attach an executive summary for the review that found the restrictions not to be in the public interest.

**Other Amendment to Local Law:** This refers to general amendments made to a local law independent of NCP. An executive summary needs to be completed and attached to the amendment if the amendments contain restrictions on competition. If there are no restrictions on competition, this needs to be stated in the 'Restrictions on competition' box and no further action is necessary.

**No Amendment to Local Law:** This refers to the situation where an existing local law is reviewed and the restrictions on competition contained in the local law are found to be justified in the public interest. This form should be sent to the Department of Local Government on completion of the review.