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COUNCIL-OPERATED ENTERPRISES

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Policy type	Strategic
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Responsible Officer:	Deputy Chief Executive Officer
Document Control:	Replaces the Council-Operated Entities Policy adopted on 14 December 2016
Delivery Program Link:	<i>2.1.1. Council operations, partnerships and coordination of resources contribute toward Implementation of Berrigan Shire 2027.</i>

1. POLICY STATEMENT

The Council is sometimes confronted with the opportunity to be involved in commercial enterprise outside its existing operations.

This may require the Council to commit its resources - labour, equipment or cash. It is important that the Council does not spread its resources too thin at the expense of its core activities. At the same time, however the Council should not close its doors to opportunities which may benefit its community.

This policy attempts to ensure that all appropriate issues are addressed when the Council is weighing up whether or not to be involved in a new or existing enterprise, either financially or in some other way.

The policy may also be useful when weighing up continuing with an existing commercial service

2. PURPOSE

The “why” question - i.e. why has this policy been developed.

The purpose of this Policy is to:

1. Improve the Council’s decision making in relation to involvement in new or existing enterprises.
2. Ensure the Council’s resources are put to the best possible use for the community.
3. Ensure Councillors are aware of the risks and likely benefits, both community and financial of any involvement or investment decision.



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4. Enable the Council to distinguish between core business enterprises and non-core business enterprises.
5. Ensure that the Council receives an adequate financial return for its investment.

3. SCOPE

This policy applies to Councillors, Council staff and organizations operated by or in conjunction with the Council.

4. OBJECTIVE

This policy is developed to assist the Council with the Delivery Program Objective:

Council operations, partnerships and coordination of resources contribute toward Implementation of Berrigan Shire 2023

5. DEFINITIONS

Commercial enterprise: An enterprise or activity operated on a systematic basis that primarily involves the provision of goods and services to the public for a fee or charge. The activity may be either a profit-making or a not-for-profit activity. The fee or charge may be paid directly by the user or by a third party

Examples of commercial enterprises currently provided by the Council include:

- Town water supply
- Waste management facilities
- Tocumwal Aerodrome

Core activity: an activity that has been traditionally undertaken by the Council and in the main funded by a Council rate or charge, or an untied grant.

Examples of core activities currently undertaken by the Council include:

- Roads and footpaths
- Stormwater drainage
- Libraries



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6. POLICY IMPLEMENTATION

Where the Council is invited to be part of a new enterprise or sees an opportunity to be involved it should consider the following questions:

1. Does involvement in the enterprise align with the Council's strategic direction
2. Do the benefits of involvement outweigh the costs?
3. Is involvement in the enterprise likely to impact on core activities?
4. Will there be an impact on private operators?
5. What are the risks to the Council of involvement in the enterprise?

It should also consider the above when considering its continued involvement in existing enterprises.

6.1 Strategic direction

In consultation with the community, Berrigan Shire Council has set out its preferred strategic direction in *Berrigan Shire 2032*, its Community Strategic Plan.

Berrigan Shire 2023 was developed to provide a common lens or framework to be used by other agencies, the local community and the Council when committing to actions now and during the next ten years.

Any decisions made in respect to Council involvement in an enterprise should be considered against the strategic outcomes identified in *Berrigan Shire 2023*. The Council should only support participation in an enterprise where it can be demonstrated that it will aid in meeting its strategic outcomes.

6.2 Costs and benefits

As a rule, the Council should only be involved in activities where the benefit to the community outweighs the costs of undertaking the activity. Thus, before entering a commercial enterprise the Council will consider the related benefits and costs to the Council.

Any enterprise in which Council may be considering involvement will have a business plan which clearly shows the strategic direction of the enterprise, its market, from where income will be derived, expenditure that will be incurred and the likely impact on the community.

A cost benefit analysis should be performed, and included in the business plan, to establish that the benefits accrued will be worth the monetary outlays. Benefits to the community, both objective and subjective should be clearly stated in the report. Initial costs and recurrent costs must be considered.

6.3 Core activities

Any decision on participation in a commercial enterprise should consider the impact on the Council's core activities.



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Involvement in a commercial enterprise may contribute to a core activity of the Council or be an alternate method of delivering a core Council service.

Alternatively, the commercial enterprise may be an activity outside the Council's ordinary responsibilities. In this case, the Council needs to consider the impact of any diversion of resources from its core activity to this new activity.

The Berrigan Shire Council Financial Strategy 2021 identified the following core actions relevant to Council participation in commercial enterprises:

1.3: Resist the pressure to fund services that are the responsibility of other levels of government.

1.6: Seek methods of achieving a return (or at least minimise ratepayer subsidy) on business activities such as the Finley Saleyards, Tocumwal Caravan Park and Tocumwal Aerodrome. Subsidies to programs not directly related to core Council activities should also be regularly reviewed.

2.2: Prioritise the renewal of existing assets over the development and delivery of new services.

As a rule, the Council will not become involved in new enterprises that are not part of its core business.

6.4 Impact on the private sector

The Council will not become involved in new enterprises if the community is being, and will continue to be, well served by private operators. As a general principle the Council is not in the business of competing with the private sector.

Where the Council is running a business, it will consider the provisions of the National Competition Policy and specifically in this case the principles of competitive neutrality.

The object of Competitive Neutrality is to remove any net competitive advantages or disadvantages that may be available to business activities conducted by government agencies. It is one of the principles of the National Competition Policy that applies to all levels of Government in Australia.

6.5 Risk

The Council should consider the risks inherent in participation in commercial enterprises. These risks include:

- Financial
- Public Liability
- Work Health and Safety
- Environment
- Professional Indemnity
- Community (Social/Government/Reputation)
- Legal



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The Council will prepare a comprehensive risk assessment before agreeing to participate in any commercial enterprise.

When considering financial risk, as a rule the greater the expected financial return the higher the risk to be borne and Council must be mindful that it is dealing with public funds

6.6 Other considerations

Where the Council is considering investing money purely on financial grounds investments must comply with requirements of the Ministerial Investment Order and the Council's Investment Policy.

The Council should also be cognizant of s358 of the *Local Government Act* which restricts the Council's ability to participate in the formation of, or take a controlling interest, in a corporation.

The Council also needs to be aware of relevant accounting standards that may require any commercial enterprise to be consolidated and/or disclosed in the Council's financial statements.

6.7 Summary

With increasingly competing demands on its resources the Council will carefully weight up all the above factors before deciding about becoming involved in any new enterprises.

All future involvements in enterprises should be considered against all the criteria listed above. If involvement in the enterprise does not meet the requirements of any of the criteria the involvement either should not go ahead, or the issue is referred to the Council for consideration.

7. RELATED LEGISLATION, POLICIES AND STRATEGIES

7.1 Legislation

- *Local Government Act 1993*
- Application of National Competition Policy to Local Government 1996
- Pricing & Costing for Council Businesses: A Guide to Competitive Neutrality 1997
- Ministerial Investment Order 2011

7.2 Council policies and guidelines

- Governance Policy
- Code of Conduct
- Berrigan Shire 2032 (Community Strategic Plan)
- Financial Strategy 2021
- Risk Management Policy and Framework
- Investment Policy
- Related Parties Policy



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8. RECORDS MANAGEMENT

All Records must be kept in accordance with Council's Records Management Policy (currently under development) and destroyed as per the General Retention and Disposal Authority: Local Government Records (GA39).

9. REVIEW AND EVALUATION

This policy will be evaluated and reviewed at least once every four (4) years as per Council's Governance Policy (currently under development) or as required.

10. DOCUMENT AVAILABILITY

A number of legislative instruments require Councils to have the policy available for inspection at Council's principal office (i.e. Policies made under Part 3, of the *Local Government Act 1993*). Each document should therefore state the ways in which the policy is available including any relevant fees and charges for access to such policy. An example of the required statement is provided below:

This policy will be available for inspection at Council's principal office during ordinary business hours as per the requirements of section 18 (c) of the *Government Information (Public Access) Act 2009* and section 167 of the *Local Government Act 1993*.

Access to the policy in digital format is free and is available on Council's website <https://www.berriganshire.nsw.gov.au/>

Printed copies of the document are available at Council's principal office (address noted below) and are subject to Council's Fees and Charges.

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11. VERSION CONTROL

Version Number	Date	Summary	Responsible Officer
2.0	15.06.2022	Formatting changes	Deputy Chief Executive Officer

APPENDICES

Nil
