

# Guidelines for Commercial Activities Policy

## Section 1 - Purpose

- (1) Under Part 4, Division 3 of the [Charles Sturt University Act 1989](#), Charles Sturt University (the University) has powers to undertake commercial activities.
- (2) This policy provides a set of principles and processes for the feasibility, development and ongoing operation of commercial activities.
- (3) This policy sets out the requirements for undertaking feasibility and due diligence assessments, identifying appropriate governance and administrative arrangements, undertaking risk assessment and risk management measures, and monitoring and reporting on commercial activities in order to maximise benefits to the University, the stewardship of resources and the management of risk.
- (4) This policy applies to all commercial activities existing before commencement of this policy and should be read in conjunction with all other University policies.

## Section 2 - Glossary

- (5) In this policy:
- a. Commercial activity has the same meaning as section 24A of the [Charles Sturt University Act 1989](#) which includes:
    - i. any activity engaged in by or on behalf of the University in the exercise of commercial functions of the University; and
    - ii. any other activity comprising the promotion of, establishment of or participation in any partnership, trust, company or other incorporated body, or joint venture, by or on behalf of the University, that is for the time being declared by the guidelines to be a University commercial activity.
  - b. Guidelines - means general instructions, and not the text type defined as 'guidelines' in the Policy Framework Policy.

## Section 3 - Policy

### Part A - Scope of commercial activities within guidelines

- (6) A commercial activity involves the receipt or expenditure by the University exceeding \$100,000 per annum involving an exchange of goods or services where the main purpose is a commercial nature.
- (7) The full cost of the proposal including resource inputs, whether cash or in kind, must be considered and a proposal must be considered in its entirety without segmentation.
- (8) An activity may be commercial even where there is no expectation of profit and a commercial activity may also fulfil non-commercial functions of the University which does not exempt the activity from the requirements of these

guidelines.

(9) Activities which accrue non-financial benefits to the University may also be considered commercial activities.

(10) A commercial activity is distinguished in some cases by the University (including the manager of the activity or a controlled entity) having a degree of independence in controlling the production or supply of the goods or services, and the price at which they are provided.

(11) A commercial activity may involve the production and sale of a range of individual goods and services (for example, a range of merchandise by an organisational unit). This policy is intended to govern the approval and management of commercial activities, not individual goods or services.

(12) Specific inclusions as University commercial activities may include:

- a. residential operations including catering, retail and accommodation facilities;
- b. farming activities;
- c. operation of clinics and laboratories on a fee for service basis;
- d. development and licencing of commercial precincts, e.g. AgriPark;
- e. commercial land developments;
- f. continuing education (including conference, non-award and tailored professional programs);
- g. overseas campus operation;
- h. commercialisation of research;
- i. consultancies;
- j. operations undertaken through a controlled entity; and
- k. operation of childcare centres on a fee for service basis.

(13) Exclusions as a commercial activity would include:

- a. an activity that is wholly funded by Government operating or special purpose grants for core higher education teaching and research activities and associated support;
- b. fee-paying award accredited programs;
- c. a research activity that does not involve commercialisation;
- d. charitable fundraising activities conducted by or on behalf of the University;
- e. the investment of University funds;
- f. the procurement of University services and assets for University use; and
- g. activities of the student union funded by membership and club subscriptions.

## **Part B - Delegate**

(14) The delegate is an officer, committee, panel or board to whom the University Council (Council) has delegated authority to approve commercial activities in accordance with the Act and the [Delegations and Authorisations Policy](#). Schedule 10 of the Delegations and Authorisations Policy sets out the delegations in respect to the approval and management of commercial activities.

## **Part C - Evaluation and approval process**

(15) Any proposed commercial activity will be subject to evaluation and assessment as to fit with the University Strategy and objectives, expected outcome, financial result and risk management.

(16) A business case should be prepared in a format determined by the Chief Financial Officer as appropriate for the

circumstances. In the case of significant commercial activities, the following is expected:

- a. an outline of the commercial activity and the appropriateness of the commercial activity for the University, including alignment with the University Strategy and plans approved by the Council;
- b. the objectives and measurable performance indicators;
- c. a detailed budget and financial analysis including projected cash flow, expected rates of return (where applicable) covering a range of scenarios and assumptions underlying the analysis;
- d. a risk assessment and management plan prepared in accordance with the University's [Risk Management Policy](#) and assessment of insurance appropriate to the activity;
- e. a detailed description of the governance, legal and management structure for the activity including taxation, foreign exchange and accounting arrangements;
- f. a program of review and reporting against milestones to the appropriate authority within the University;
- g. where non-University parties are involved, a due diligence assessment on the parties' financial, governance, management and (where relevant) academic processes, capacity, capability and reputation;
- h. how the commercial activity will comply with the principles of competitive neutrality;
- i. the benefits of the activity to the University taking into account the risk, opportunity costs, effect on the University's activities and non-financial benefits; and
- j. identification of stakeholders and impacts on other areas of the University where applicable.

(17) The content and level of detail required in the business case will vary depending on the type of commercial activity and the previous experience of the University in the management of the type of activity.

(18) At all stages of the evaluation and approval process, parties must take care to avoid actual or potential conflicts of interest. Actual or possible conflicts of interest should be identified in the proposal.

(19) Upon approval, the delegate must ensure that the activity is entered into the University's Register of Commercial Activities and any supporting documents as required by the University including the filing of business plans on the University file repository system (TRIM).

## **Part D - Operating requirements**

(20) The conduct and operation of University commercial activities must be consistent with the object and functions of the University, and with all applicable laws, policies and regulations.

(21) Commercial activities must be managed in such a way as to comply with the University's obligations as a public authority, and to minimise the risk of corruption, fraud, maladministration or waste. Staff involved in the activity must adhere to the University's [Code of Conduct](#) and to all relevant policies, including those relating to the management of the University's resources.

(22) Members of the Council, Vice-Chancellor's Leadership Team, delegates and Budget Centre Managers will ensure that they declare and avoid conflicts of interest in relation to University commercial activities.

(23) Commercial activities of the University must comply with the principles set out in the NSW Government Policy Statement on the Application of Competitive Neutrality and related university policies as determined from time to time.

(24) The University will separately account for each approved commercial activity within the University's accounts so that the financial position and performance of the activity can be separately accounted for and measured against budget and approved plans.

(25) Commercial activities will report bi-annually to the Finance, Audit and Risk Committee on their commercial

activities including financial performance, risk and performance against plans.

## **Part E - Review of commercial activities**

(26) Registered commercial activities will be reviewed at least every five years and beforehand should circumstances warrant. The object of review is to:

- a. assess the continuing viability of the activity;
- b. identify any significant changes in the activity;
- c. ascertain appropriate risk management processes are in place (including corruption risk assessments);
- d. explore opportunities for leveraging of the activity;
- e. ensure compliance with relevant law, policy and standards; and
- f. formally assess mid-term performance of the activity and recommend continuation, variation or termination of the activity.

## **Part F - Register of Commercial Activities**

(27) The Chief Financial Officer shall be responsible for maintaining the Register of Commercial Activities.

(28) Full access to the Register of Commercial Activities is available to the following:

- a. members of the University Council;
- b. members of the Vice-Chancellor's Leadership Team;
- c. the NSW Minister for Education;
- d. the University Secretary;
- e. the NSW Audit Office;
- f. the Internal Auditor; and
- g. other parties as required under law or by authority.

## **Part G - Controlled entities**

(29) The boards of controlled entities are responsible for ensuring that evaluation, risk management and accountability processes are in place and are consistent with the requirements of applicable legislation and policy. Where a University commercial activity is an activity managed by a controlled entity which has a Board of Directors and is subject to the [Corporations Act](#), then the activity will be managed in accordance with the constitution of that entity provided that:

- a. the controlled entity does not engage in the exercise of any function or engage in any activity that the University is not authorised by or under the Act to exercise or engage in;
- b. the Board of Directors shall be responsible for ensuring that appropriate evaluation and risk processes are followed by the management of the entity;
- c. the Board of Directors shall include in an Annual Report to the University any significant change in the range of commercial activities and the risks entailed; and
- d. the Board shall be responsible for informing the Registrar of any new or altered activity or any new or altered details of existing activities which should be entered in the Register.

## **Section 4 - Procedures**

(30) Nil.

## **Section 5 - Guidelines**

(31) Nil.

## Status and Details

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