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Local Government Bulletin

Threshold Amounts for New Significant Business Activities

Purpose

To inform all local governments of the threshold amounts to be employed to determine new type 1 or type 2 business activities for 2008-09 based on current expenditure for the 2007-08 financial year.

Background

Under section 547 of the *Local Government Act 1993* (LG Act) a local government must assess, as soon as possible after the budget meeting for the year, whether any new type 1 or type 2 business activities have arisen. These are based on the current expenditure for those activities in the preceding financial year.

Under section 546 of the LG Act the Minister must set the “threshold amounts” for current expenditure of that financial year to determine whether an activity is to be identified as a new type 1 or type 2 business activity.

The threshold amounts are based on values set at 30 June 1993 adjusted each year for cost of living movements since that date as recorded by the Consumer Price Index.

Current Status

The Minister has decided the threshold amounts for the 2007-08 financial year as follows. The equivalent figures for 2006-07 are shown in brackets.

(a) For new type 1 activities:

- (i) for water and sewerage combined activities - \$37,800,000
(2006-07: \$36,400,000)
- (ii) for other activities - \$22,700,000
(2006-07: \$21,800,000)

(b) For new type 2 activities:

- (i) for water and sewerage combined activities - \$11,300,000
(2006-07: \$10,900,000)
- (ii) for other activities - \$7,600,000
(2006-07: \$7,300,000)

As in the past, to determine whether an activity is a new type 1 or type 2 business activity for the 2008-09 financial year, a council must take into account the operating expenses

for the 2007-08 financial year, less any depreciation included therein and any expenditure included therein (to achieve competitive neutrality which is not actually incurred by the local government) plus any loan redemption payments in the 2007-08 financial year.

The expenditure threshold for business activities known as 'type 3' remains \$270,000. Calculations for this threshold are based on expenditure including depreciation.

Amalgamated Local Governments

In consultation with Queensland Treasury and KPMG as the Local Government Tax Equivalents Regime (LGTER) Tax Assessor, in July 2008 the Department further clarified the position on the application of National Competition Policy (NCP) principles and provided affected councils with advice and options for consideration.

The Department reiterates its support for the principles and processes that underpin the NCP.

Section 555 of the LG Act states that a local government must ensure that a public benefit assessment is undertaken and a public benefit assessment report prepared for each of its significant business activities.

New regional councils will not have to undertake public benefit assessments of business activities that now meet, but did not previously meet, the public benefit assessment criteria before 1 July 2009. However, a new regional council may decide to merge its business activities into one unit before that time and in accordance with the LG Act requirements.

Subsequently, the *Local Government and Industrial Relations Amendment Act 2008* included an amendment specifically related to the application of competition policy principles by affected local councils. The supporting implementation regulation for the changes to public benefit assessment requirements is provided below.

<http://www.legislation.qld.gov.au/LEGISLTN/ACTS/2008/08AC005.pdf> - para 1297

Strict compliance with the LG Act would require the councils subject to structural reform to complete a public benefit assessment in the period following 1 July 2009. No action by councils is required prior to this date.

However, councils in South East Queensland will be subject to reform of the water and sewerage operations with the envisaged transfer of a significant level of current operations to separate organisations or authorities. The precise form of this envisaged transfer has yet to be determined, but will be known prior to 1 July 2009. When determined and enacted, the Department of Local Government, Sport and Recreation will further advise affected councils in respect of the requirement for a public benefit assessment.

In recognition of the structural reform of local government following the 15 March 2008 local government elections and feedback received from stakeholders, any new regional

council that wishes to merge the business activities of 2 or more of its existing LGTER business activities into one business activity prior to July 2009 may do so without first undertaking a Public Benefit Assessment. The Public Benefit Assessment to determine the most appropriate form for the combined business is not required before 1 July 2009, consistent with the advice provided by the Department in April 2008.

A local government may choose at this time to operationally consolidate previously identified business activities of abolished councils, e.g. consolidate the various water businesses. In terms of ongoing compliance with the LGTER, councils are able to choose to:

- Report each business activity separately to the Tax Assessor, or
- Seek approval, via the Department, to report to the Tax Assessor as a single consolidated entity.

Where the council chooses to report the business activities as a single consolidated activity, the Tax Assessor will provide a weighted average instalment rate (WAIR) for use in the calculation of all instalment payments. This process would apply from the commencement of the 2008-09 financial year.

Further Information

For further information please contact Natalee Jennings on (07) 3225 8653 or email natalee.jennings@dlgsr.qld.gov.au. The Department's postal address is: PO Box 15031, CITY EAST QLD 4002

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