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# 1. Acknowledgement of Country

Deloitte and IPART acknowledge the Traditional Custodians of the land on which the workshops were held and pay respect to Elders past, present and future. We honour Australian Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to place, and rich contribution to society.

## 2. Executive summary

IPART is reviewing NSW’s competitive neutrality policies and processes to identify issues and concerns with the current competitive neutrality policies and to analyse opportunities to expand their scope to other government activities. IPART will consider how the policies compare to best practice and recommend potential improvements. This review delivers on the commitment made by the NSW Government to review its competitive neutrality framework in response to the commitment made by the NSW Government to review its competitive neutrality framework in response to the recommendations of a review of Australia’s competition policy undertaken in 2015 (commonly referred to as the Harper Review).

IPART commenced its review when terms of reference for the review were received in February 2022. An issues paper was released in June 2022. Submissions in response to the issues paper were due to IPART on 15 August 2022.

Following the release of the issues paper, three stakeholder workshops were held in the first week of August and were facilitated by Deloitte. The purpose of these workshops was to provide input into the review and for IPART to understand stakeholder issues and concerns. This report summarises the approach taken to running the workshops and the issues raised by participants. Each workshop had a different focus, as outlined in the table below, however participants could choose which workshop they attended regardless of the sector that they represented e.g. local government, state government or non-government business.

Workshops were held via Zoom and facilitated by Deloitte, with short introductory and closing sections by IPART. To inform the workshops, IPART sought expressions of interest from a broad stakeholder list for two weeks. IPART asked their role, what topics they would be interested in and if they would prefer to attend in person or online.

Table 1: Workshop summary

<b>Workshop</b>	<b>Date</b>	<b>Time</b>	<b>Number of participants (excluding Deloitte and IPART participants)</b>
<b>Local government business</b>	Monday 8 <sup>th</sup> August 2022	10am to 12pm	37
<b>State government business</b>	Monday 8 <sup>th</sup> August 2022	2pm to 4pm	20
<b>Non- government business</b>	Tuesday 9 <sup>th</sup> August 2022	10am to 12pm	20

A number of key themes emerged from the workshops. These are outlined in the table below.

Table 2: Key themes raised in the workshops

Session	Key themes
<b>Overview of the NSW Competitive Neutrality Framework</b>	<ul style="list-style-type: none"> <li>Awareness was mixed among the groups. State and local government representatives reported medium to high awareness</li> <li>Understanding of the purpose of the competitive neutrality framework was low</li> <li>It was not always clear why the government sector was providing services in competition with the non-government sector</li> </ul>
<b>When do competitive neutrality principles apply</b>	<ul style="list-style-type: none"> <li>There was uncertainty about what government activities competitive neutrality principles apply to</li> <li>There was uncertainty about how to apply the competitive neutrality tests, when the tests have been applied by government organisations and the findings of the tests</li> </ul>
<b>Competitive neutrality complaints</b>	<ul style="list-style-type: none"> <li>Few competitive neutrality complaints have been received</li> <li>Local and state government businesses do not always have clear processes to deal with competitive neutrality complaints</li> <li>Competitive neutrality complaints were burdensome for complainants with a low perceived probability of success</li> <li>Competitive neutrality complaints require evidence to be produced by complainants which they might not have access to</li> </ul>
<b>Promoting transparency and accountability</b>	<ul style="list-style-type: none"> <li>There was a perception that providing information about government businesses will compromise these businesses (particularly with respect to tendering)</li> <li>Greater transparency and accountability would assist the non-government sector with understanding if there were grounds for a competitive neutrality complaint</li> </ul>

IPART invited interested participants to contact IPART staff members directly to further explore the issues raised in the workshops. Participants were also encouraged to provide written submissions outlining their concerns.

There will be further opportunities for stakeholders to provide input into IPART’s competitive neutrality review process following the release of the draft report. This will include submissions to the draft report and attendance at the public hearing.



# 3. IPART's competitive neutrality review

Deloitte facilitated three stakeholder workshops for IPART as part of its review of NSW competitive neutrality policies.

## 3.1 The purpose of IPART's competitive neutrality review

IPART is reviewing NSW's competitive neutrality policies and processes to identify issues and concerns with the current competitive neutrality policies and to analyse opportunities to expand their scope to other government activities. IPART will consider how the policies compare to best practice and recommend potential improvements. This review delivers on the commitment made by the NSW Government to review its competitive neutrality framework in response to the recommendations of a review of Australia's competition policy undertaken in 2015 (commonly referred to as the Harper Review).

Competitive neutrality policies aim to ensure that government businesses competing with private and not-for-profit businesses do not have a competitive advantage simply because they are government owned. Some advantages of government ownership that a government business may benefit from are:

- not having to pay the same set of taxes as other businesses
- not needing to earn a profit
- being able to access cheaper finance or infrastructure than other businesses
- non-cost advantages such as exemptions from regulatory constraints.

These do not include any advantages that come from the size, structure, or scope of a government business's operation because these are types of advantages that other competing businesses may also have access to. Competitive neutrality does not guarantee that every business will be able to compete and make a profit.

NSW competitive neutrality policies and procedures require public trading enterprises, including state owned corporations, and public financial corporations to price goods and services in a competitively neutral way. These government businesses are subject to the NSW Treasury's Commercial Policy Framework.

For other government owned businesses, the competitive neutrality policies and procedures focus on helping them to understand and account for the full costs of doing business and ensuring that if they choose to price below the competitively neutral price, they do this intentionally.

NSW Treasury's *Guidelines for pricing of user charges* (TPP 01-02), 2001 (the NSW pricing guideline) applies to non-corporatised state government businesses. This document sets out what these businesses should do to estimate a competitively neutral price. The general approach adopted by NSW Treasury in these guidelines is that competitive neutrality will be achieved where prices at least cover avoidable costs and are consistent with the approach followed by private sector competitors.

A separate policy statement (*Policy Statement on the Application of National Competition Policy to Local Government*) and pricing guideline (*Pricing and Costing for Council Businesses – a Guide to Competitive Neutrality, July 1997*) specifically address the application of competitive neutrality policy to local government businesses in NSW. The focus of the local government framework is internal transparency. Local government businesses may price below competitively neutral costs to achieve policy aims, but they must account for the full costs of running the business and make an explicit decision in relation to any subsidy.

By helping develop effective competition, competitive neutrality gives all businesses incentives to innovate, improve their products and become more efficient. It also gives non-government businesses, particularly small

businesses, confidence that they will not be unfairly disadvantaged due to a government owned competitor operating in the same market.

In NSW, current competitive neutrality policies and processes:

- apply to significant state and local government businesses where there is a public interest in applying them
- set out costing and pricing principles for government businesses to follow when setting prices for their products
- provide a framework for handling complaints from competitors who feel that they have been disadvantaged by a government business that is not following the competitive neutrality principles.

### 3.2 The timeline for IPART's review

IPART commenced its review when terms of reference for the review were received in February 2022. An issues paper was released in June 2022. Submissions in response to the issues paper were due on 15 August 2022.

Following the release of the issues paper, three stakeholder workshops were held in the first week of August and were facilitated by Deloitte. The purpose of these workshops was to provide input into the review and for IPART to understand stakeholder issues and concerns.

A draft report is due in October 2022, with a public hearing set for November 2022. The final report is to be provided to the Minister in February 2023, to be approved for publication. Table 3 provides more information.

Table 3: Review timeline

Date	Key event
February 2022	Terms of reference received
28 <sup>th</sup> June 2022	Issues paper released
8 <sup>th</sup> August 2022	Local and state government business workshops held
9 <sup>th</sup> August 2022	Non-government business workshop held
October 2022	Draft report released
November 2022	Public hearing
February 2023	Final report provided to the Minister for approval

# 4. Workshops

## 4.1 Overview of the workshops

Deloitte facilitated three virtual public workshops for IPART as part of its competitive neutrality review. These were public workshops targeted to specific stakeholders from three categories – local government businesses, state government businesses and non-government businesses. Participants who chose to register were sent a Zoom link prior to the commencement of the workshop. While each workshop had a particular focus, members of the public could attend whichever workshop they elected to join and, in some cases, attended more than one workshop.

To inform the workshops, IPART sought expressions of interest from a broad stakeholder list for two weeks. IPART asked their role, what topics they would be interested in and if they would prefer to attend in person or face to face.

Workshops were held via Zoom and facilitated by Deloitte, with short introductory and closing sections by IPART.

These slides have been made publicly available by IPART.

Table 4: Workshop summary

<b>Workshop</b>	<b>Date</b>	<b>Time</b>	<b>Number of participants (excluding Deloitte and IPART participants)</b>
<b>Local government business</b>	Monday 8 <sup>th</sup> August 2022	10am to 12pm	37
<b>State government business</b>	Monday 8 <sup>th</sup> August 2022	2pm to 4pm	20
<b>Non-government business</b>	Tuesday 9 <sup>th</sup> August 2022	10am to 12pm	20

## 4.2 Structure and content of each workshop

### 4.4.1 IPART providing an introduction and closing remarks for each workshop

In each workshop, an IPART Tribunal member gave a brief introduction. The Tribunal member provided an acknowledgment of country, welcomed respondents, provided an overview of the review, and discussed the aims and objectives of the workshop.

The workshop was then passed on to Deloitte who facilitated the rest of the discussion before passing back to IPART to close the workshop. To conclude the workshop, the timeline for the final report was reiterated. In addition, participants were encouraged to send emails to the IPART team if any further questions or concerns remained, or to visit the IPART website for additional information.

#### **4.4.2 Deloitte presented the content and facilitated the discussion in each workshop**

Deloitte facilitated the next part of the discussion. After beginning with housekeeping and an icebreaker using Mentimeter, the core discussion began. This was split into four twenty-minute sessions to cover core topics in the competitive neutrality review (see 4.4.3).

At the end of each of these sessions, a discussion was held. In the discussion portion, Mentimeter was first used to frame these discussions. Free text or poll-based questions were displayed on the presenter's screen and participants were given the opportunity to answer these questions using an electronic device of their choice. Mentimeter then recorded the results of these questions, which were used for guiding the discussion and for further analysis (see Section 5).

Following on from these questions, breakout rooms were set up to facilitate smaller group discussions or address any questions or concerns they had about that session – or competitive neutrality in general. These discussions were facilitated by two Deloitte team members. Two members of the Deloitte team recorded any points discussed on note-taking software (Mural). These notes were used when generating key themes (see Section 5).

#### **4.4.3 Each workshop included four key areas of content on the competitive neutrality review**

Each workshop was divided into four sessions. Information was provided to participants on a particular topic in order to stimulate discussion. Each session is described briefly below.

##### **Session 1: Overview of the NSW Competitive Neutrality Framework**

This section broadly covered topics including:

- What is competitive neutrality?
- NSW competitive neutrality framework at a glance
- Why is competitive neutrality important?
- Competitive neutrality policies support the market
- Case study

##### **Session 2: When do competitive neutrality principles apply?**

This section provided an overview of when competitive neutrality principles apply.

##### **Session 3: Competitive neutrality complaints**

This section discussed the complaints process for competitive neutrality.

##### **Session 4: Promoting transparency and accountability**

This section broadly covered topics including:

- Promoting transparency and accountability
- Reporting requirements

Once all sessions had been completed, the workshop was passed back to IPART for closing remarks.

# 5. Summary of key themes

Based on the discussion, Mentimeter results and chat, we identified a series of key themes, depicted in the table below. These were fairly consistent across groups.

Table 5: Summary of key themes from across the workshops

Session	Key themes
<b>Overview of the NSW Competitive Neutrality Framework</b>	<ul style="list-style-type: none"><li>• Awareness was mixed among the groups. State and local government representatives reported medium to high awareness</li><li>• Understanding of the purpose of the competitive neutrality framework was low</li><li>• It was not always clear why the government sector was providing services in competition with the non-government sector</li></ul>
<b>When do competitive neutrality principles apply</b>	<ul style="list-style-type: none"><li>• There was uncertainty about what government activities competitive neutrality principles apply to</li><li>• There was uncertainty about how to apply the competitive neutrality tests, when the tests have been applied by government organisations and the findings of the tests</li></ul>
<b>Competitive neutrality complaints</b>	<ul style="list-style-type: none"><li>• Few competitive neutrality complaints have been received</li><li>• Local and state government businesses do not always have clear processes to deal with competitive neutrality complaints</li><li>• Competitive neutrality complaints were burdensome for complainants with a low perceived probability of success</li><li>• Competitive neutrality complaints require evidence to be produced by complainants which they might not have access to</li></ul>
<b>Promoting transparency and accountability</b>	<ul style="list-style-type: none"><li>• There was a perception that providing information about government businesses will compromise these businesses (particularly with respect to tendering)</li><li>• Greater transparency and accountability would assist the non-government sector with understanding if there were grounds for a competitive neutrality complaint</li></ul>

More detail is provided in Section 6 to Section 9.

# 6. Session 1: key themes

In each workshop, Session 1 provided an overview of the NSW Competitive Neutrality Framework. The table below summarises the comments from each workshop on the key themes raised in Session 1.

Table 6: Session 1 key themes

Key theme	Workshop 1: Local government businesses	Workshop 2: State government businesses	Workshop 3: Non-government businesses
<p><b>Awareness was mixed among the groups. State and local government reported medium to high awareness.</b></p>	<ul style="list-style-type: none"> <li>Local government business workshop respondents primarily had low or medium self-reported awareness of competitive neutrality.</li> <li>Only a small percentage of respondents had ever had experience with a competitive neutrality complaint from the private sector. The only provided example was that a local council shouldn't be involved in land development.</li> </ul>	<ul style="list-style-type: none"> <li>State government business workshop respondents had relatively high self-reported awareness of competitive neutrality. Some respondents group reported medium awareness of competitive neutrality.</li> <li>Some respondents had previously received a competitive neutrality complaint from the private sector.</li> <li>Discussion among respondents suggested that specific teams in state government businesses should be aware of, and understand, competitive neutrality policies. These include regulatory, finance and business development teams.</li> </ul>	<ul style="list-style-type: none"> <li>Non-government business workshop respondents had low levels of awareness of competitive neutrality.</li> <li>While this is so, some respondents had experiences with government businesses not charging full costs for services.</li> <li>Some respondents reported having cause to make a complaint but having not known it was an option.</li> </ul>

<p><b>Understanding of the purpose of the competitive neutrality framework is low</b></p>	<ul style="list-style-type: none"> <li>• Almost all the respondents stated that competitive neutrality tests were not understood in their organisation.</li> <li>• Break-out room discussions reflected sentiment suggesting that the understanding of the purpose of competitive neutrality is low. Respondents seemed to not understand why competitive neutrality frameworks are in place, or how they benefit business in NSW.</li> </ul>	<ul style="list-style-type: none"> <li>• Some respondents stated they understood the competitive neutrality tests, some said they were unsure of their understanding, and some said they didn't understand competitive neutrality tests.</li> </ul>	<ul style="list-style-type: none"> <li>• Despite not being aware of competitive neutrality, private business workshop respondents seemed to have a strong understanding of why competitive neutrality is important – given respondents seemed to have experienced plausible reasons for complaints in their sector.</li> <li>• While this is so, respondents again reflected the notion that competitive neutrality in the context of health and other unexplored sectors is poorly understood and should be an area for further development.</li> </ul>
<p><b>It is not always clear why the government sector is providing services in competition with the non-government sector</b></p>	<ul style="list-style-type: none"> <li>• Respondents reflected the notion that the government sector often provides services not to compete with the private sector, but to provide supply for a market failure in terms of (1) provision and (2) cost of a service. Sentiment from the group suggested that councils try to keep costs low to enable participation and equity of access for all citizens within that council region. Key examples provided included council leisure and sporting centres and childcare centres.</li> </ul>	<ul style="list-style-type: none"> <li>• Respondents in this workshop again reflected a lack of clarity around competitive neutrality in the context of cost recovery.</li> <li>• Another key point mentioned was the uncertainty around the application of competitive neutrality principles to smaller state government business units.</li> </ul>	<ul style="list-style-type: none"> <li>• Respondents reflected on the notion that it is unclear why government businesses are competing with small businesses.</li> <li>• Key examples were provided by respondents. One such example included small regional businesses in industries such as caravan and camping – where respondents reported they felt government competitors were providing low-cost services, undercutting their private business. Another participant reflected that governments should contract business activities to private</li> </ul>

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enterprises rather than conducting  
them themselves.

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# 7. Session 2: key themes

In each workshop, Session 2 outlined when competitive neutrality policies apply. The table below summarises the comments from each workshop on the key themes raised in Session 2.

Table 7: Session 2 key themes

Key theme	Workshop 1: Local government businesses	Workshop 2: State government businesses	Workshop 3: Non-government businesses
<p><b>There is uncertainty about what government activities competitive neutrality principles apply to</b></p>	<ul style="list-style-type: none"> <li>When asked "On a scale from 1-5, how effective are the application tests for competitive neutrality?", some respondents reported they did not know. When asked why, responses included: (1) not clear as to when to apply and (2) difficult to determine and understand the mechanism.</li> <li>In addition, there were suggestions that the \$2 million threshold is not significant enough – and other states are closer to \$10 million. It was suggested that materiality and inflation are important factors to be considered in setting a threshold.</li> </ul>	<ul style="list-style-type: none"> <li>When asked "On a scale from 1-5, how effective are the application tests for competitive neutrality?", some respondents reported they did not know.</li> <li>Respondents reflected that their understanding is low around what government activities competitive neutrality applied to, particularly in the context of issues such as cost recovery and grants.</li> <li>It was also suggested that competitive neutrality may be easier to understand for a regulated entity than a smaller unregulated entity.</li> <li>In addition, one respondent suggested policies such as competitive neutrality would be difficult for those of culturally</li> </ul>	<ul style="list-style-type: none"> <li>The non-government business group seemed to be primarily unaware of the application of competitive neutrality, with some respondents reporting low awareness. While this is so, many likely have a plausible reason to pursue a complaint, with some respondents feeling they have been undercut by the government.</li> <li>Despite this, some respondents reported making a competitive neutrality complaint.</li> <li>A few respondents indicated that they knew someone who had made a competitive neutrality complaint and that it had been unresolved.</li> <li>There was commentary that the \$2 million significance test might be an inappropriate limit.</li> </ul>

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and linguistically diverse backgrounds.

- Some respondents stated the role of competitive neutrality in health and other unexplored sectors is poorly understood.

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**There is uncertainty about how to apply the competitive neutrality tests, when the tests have been applied by government organisations and the findings of the tests**

- Some respondents had previously had difficulty applying the competitive neutrality tests.
- When asked why, one respondent stated that their difficulty arose from mixed views of councils on the requirement to apply the policies.

- Some respondents had never applied the competitive neutrality tests.

- When asked "On a scale from 1-5, how effective are the application tests for competitive neutrality?", some respondents reported they did not know. When asked why, respondents suggested that there was no understanding by complainants about evidence needed, limited exposure to the process, a lack of awareness of successful applicants and defensive agencies not wishing to entertain complaints.
- Some respondents suggested these tests should be applied more often.
- One respondent stated that approaches to competitive neutrality from other jurisdictions may be best. These jurisdictions include South Australia, Tasmania, and the US. Another respondent stated the US is completely transparent about government business units, and Australia should mimic this.

# 8. Session 3: key themes

In each workshop, Session 3 focused on the competitive neutrality complaints process. The table below summarises the comments from each workshop on the key themes raised in Session 3.

Table 8: Session 3 key themes

Key theme	Workshop 1: Local government businesses	Workshop 2: State government businesses	Workshop 3: Non-government businesses
<b>Few competitive neutrality complaints have been received</b>	<ul style="list-style-type: none"> <li>Some respondents were unsure if their organisation had ever received a competitive neutrality complaint, some stated they had not received a complaint, and some stated they had received a complaint.</li> </ul>	<ul style="list-style-type: none"> <li>Some respondents were unsure if their organisation had ever received a competitive neutrality complaint, some said they had received a competitive neutrality complaint, and some said they had not received a competitive neutrality complaint.</li> </ul>	<ul style="list-style-type: none"> <li>Some respondents stated they did not know how to make a competitive neutrality complaint.</li> <li>Some respondents stated they have made a competitive neutrality complaint before and that is had been unresolved.</li> <li>Some respondents stated they had cause to make a complaint, but they had not known it was an option.</li> </ul>
<b>Local and state government businesses might not have a clear process to deal with competitive neutrality complaints</b>	<ul style="list-style-type: none"> <li>Some respondents were unsure if their organisation had a process for competitive neutrality complaints. Some were certain there was no enforced process, and some had a complaint handling process for competitive neutrality.</li> <li>Feedback from workshop respondents suggest few local councils have procedures to follow if a competitive neutrality complaint is received. Some suggested that only specific teams such</li> </ul>	<ul style="list-style-type: none"> <li>Some respondents were sure their organisation did not have a process for competitive neutrality complaints. Some were unsure if their organisation had a process, and some stated their organisation did have a complaint handling process for competitive neutrality.</li> <li>There was general uncertainty about what to do if a complaint is received.</li> </ul>	N/A

as finance would know what to do if a competitive neutrality complaint was lodged. Many representatives from local councils suggested they “wouldn’t know what to do” if they received a competitive neutrality complaint.

**Competitive neutrality complaints are long and burdensome for the complainant**

- One respondent stated they had received a complaint and that it took more than 6 months to be resolved.
- Another respondent commented that councillors have very little appetite to change how complaints processes are run.
- When asked how long it took for the complaint to be resolved, one respondent said between 1 and 3 months, and another respondent said the complaint had been unresolved.
- A few respondents said the key barrier to making a complaint was the time involved in making a complaint.
- Some respondents were also sceptical that there was going to be any chance of success when lodging a complaint, or that an independent review would occur.

**Competitive neutrality complaints require evidence to be produced by complainants which they might not have access to**

N/A

N/A

- When asked what the key barriers were to make a complaint, some of the respondents stated it was lack of transparency of government and some said it was lack of awareness of competitive neutrality principles.

# 9. Session 4: key themes

In each workshop, Session 4 focused on the reporting processes designed to promote transparency and accountability in government businesses. The table below summarises the comments from each workshop on the key themes raised in Session 4.

Table 9: Session 4 key themes

Key theme	Workshop 1: Local government businesses	Workshop 2: State government businesses	Workshop 3: Non-government businesses
<b>There is a perception that providing information about government businesses will compromise these businesses (particularly with respect to tendering)</b>	<ul style="list-style-type: none"> <li>Some respondents stated there were disadvantages to government businesses releasing information about costs while others said there were no disadvantages and or responded with 'N/A'.</li> <li>Disadvantages listed by respondents included: that it can be advantageous for private sector competitors, it gives the competitor more information than would otherwise be available, the council already publishes its financial reports on a quarterly and annual basis, it would create an additional regulatory burden and that there are additional costs to gathering data and responding to public questions.</li> <li>While this is so, some respondents suggested the costing approach should be published.</li> </ul>	<ul style="list-style-type: none"> <li>Most respondents stated there were disadvantages to government businesses releasing information about costs.</li> <li>Disadvantages listed by respondents included: reporting effort, impact on commerciality, giving sensitive information to competitors, impact on negotiations with other parties and the potential to divulge information that may compromise competitive tenders.</li> <li>In alignment with this sentiment, most respondents stated the costing approach of government business should not be published.</li> </ul>	<ul style="list-style-type: none"> <li>Most respondents stated the costing approach of government businesses should be published.</li> <li>Respondents generally acknowledged the concerns about confidentiality but still considered it important to have access to such data.</li> </ul>
<b>Transparency and accountability</b>	<ul style="list-style-type: none"> <li>One respondent reflected the notion that governments should be transparent as a matter of principle.</li> </ul>	N/A	<ul style="list-style-type: none"> <li>Most respondents agreed there was not enough public information to work out if a government business is</li> </ul>

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**assist the non-government sector with understanding if there are grounds for a competitive neutrality complaint**

- correctly applying competitive neutrality principles.
- Respondents stated they require information such as profit and loss statements, justification of pricing, a one-page summary with a link to detail, statement of principles, a simple cheat sheet/summary of competitive neutrality principles, clear guidelines, simple complaints processes and 'proper' annual reporting.
  - Respondents stated this information should be published on the government business' website, some stated this information should be published in annual reports, some said it should be published on the NSW Treasury website and some said it should be published elsewhere.
  - Most respondents believed government entities should be required to explain how competitive neutrality principles apply to them.
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# 10. Suggested improvements

Respondents made suggestions during the workshops on ways in which the NSW competitive neutrality framework could be improved, for example, to increase knowledge and awareness of the framework. The table below summarises the suggested actions from each workshop.

Table 10: Suggested improvements

	<b>Workshop 1: Local government businesses</b>	<b>Workshop 2: State government businesses</b>	<b>Workshop 3: Non-government businesses</b>
<b>Suggested actions</b>	<ul style="list-style-type: none"> <li>• Implementation of short courses/online training</li> <li>• Provision of checklist working sheets</li> <li>• Increased clarity on the application process</li> <li>• Better guidelines</li> <li>• More targeted workshops</li> <li>• Decision making trees</li> <li>• Accessible documentation</li> <li>• Provision of a tool/handbook</li> <li>• An app in Service NSW</li> <li>• Training</li> <li>• IPART standard process for mediation</li> <li>• Examples of how complaints handling processes should be set up</li> <li>• Allowing for anonymous complaints</li> <li>• Going directly to IPART rather than local councils.</li> </ul>	<ul style="list-style-type: none"> <li>• Establish a direct contact at IPART/NSW Treasury who communicates and assists with competitive neutrality complaints</li> <li>• Simple application procedures</li> <li>• Criteria and decision trees</li> </ul>	<ul style="list-style-type: none"> <li>• Review the approach taken in other jurisdictions including South Australia, Tasmania, and the US</li> <li>• Consider approach to costing established by University of South Australia</li> <li>• Enforcement via IPART of the requirement to apply published principles</li> <li>• A more simplified and direct complaints mechanism</li> </ul>

# 11. Next steps

IPART invited interested participants to contact IPART staff members directly to further explore the issues raised in the workshops. Participants were also encouraged to provide written submissions outlining their concerns. Submissions were due by 15 August 2022.

There will be further opportunities for stakeholders to provide input into IPART's competitive neutrality review process following the release of the draft report. This will include submissions to the draft report and attendance at the public hearing.



# 12. Appendix 1: Mentimeter results

## Local government Session 1

Figure 1: Local government session 1 question 1

Among your colleagues, what is the level of awareness of competitive neutrality?

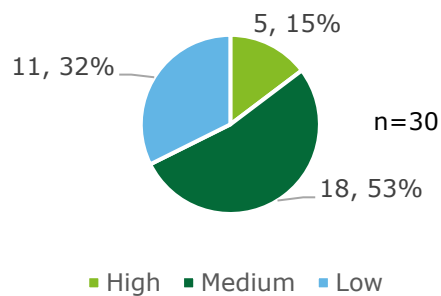


Figure 2: Local government session 1 question 2

Among your colleagues, what is the level of awareness of competitive neutrality policies?

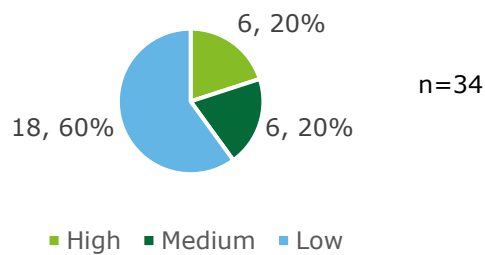


Figure 3: Local government session 1 question 3

Have you ever had an experience with a competitive neutrality complaint from the private sector?

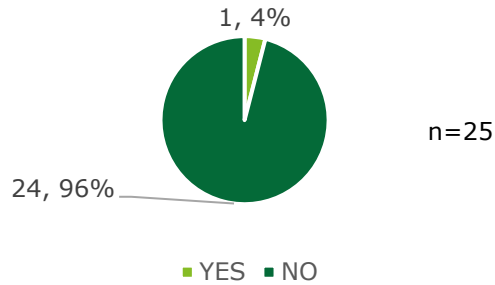


Figure 4: Local government session 1 question 4

If you answered yes to the previous question, could you explain what happened in a couple of dot points?

- Developer argued that council shouldn't be involved in land development

**Session 2**

Figure 5: Local government session 2 question 1

On a scale from 1-5, how effective are the application tests for competitive neutrality?

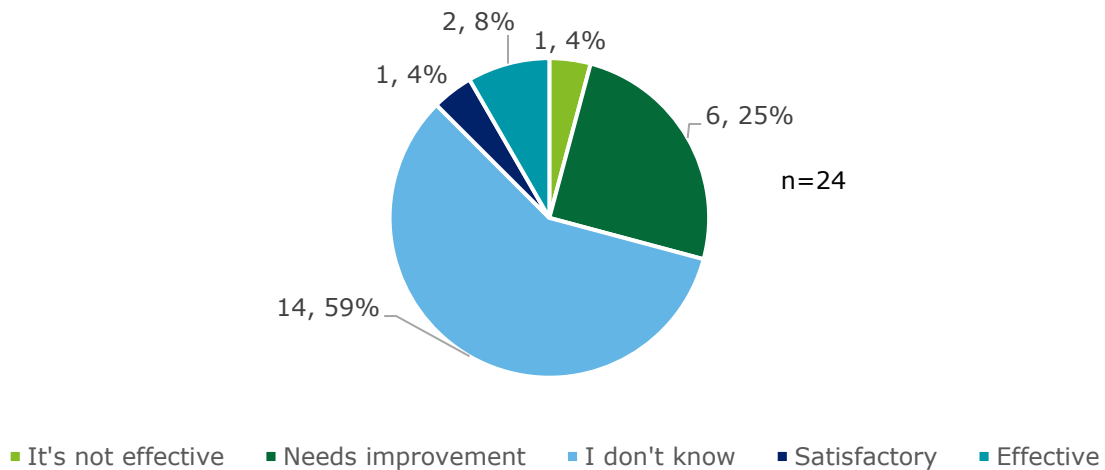


Figure 6: Local government session 2 question 2

Explain your ranking on competitive neutrality in the previous question.

- Not clear as to when to apply
- I'm unaware of the principles
- Difficult to determine and understand the mechanism
- Free and low-cost overnight camping sites provided by local councils in competition with private caravan parks don't get considered as business activity, let alone significant business activity
- \$2m isn't a large amount for government, but when competing against smaller businesses, \$2m is material
- There is no evidence of a problem or failure
- Lack of will to apply unless you get a complaint
- Some services that may fall into this policy that may not have been considered

Figure 7: Local government session 2 question 3

### Are the competitive neutrality tests understood in your organisation?

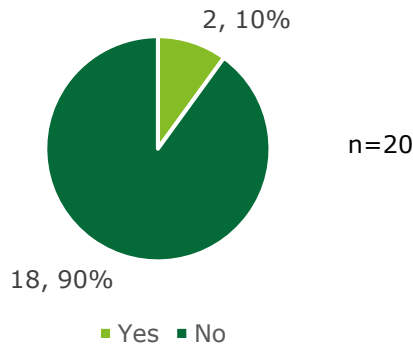


Figure 8: Local government session 2 question 4

### What would help your organisation applying the competitive neutrality tests?

- Short course(s) / online training
- "Checklist
- Working sheets"
- Clarity on application
- Better guidelines / focus, more targeted workshops
- Clearer guidance, including decision making trees and checklists
- In the past has been hard to find documentation and when you do find it is so old you aren't sure if it is current
- As part of a training program
- Providing a tool / handbook etc
- Increase councillor awareness
- An app available on ServiceNSW
- Easily understood guidelines

Figure 9: Local government session 2 question 5

### Have you encountered any difficulties in applying the competitive neutrality tests?

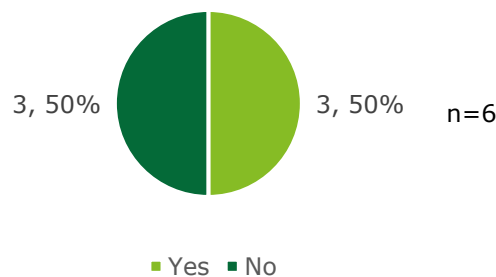


Figure 10: Local government session 2 question 6

If you have encountered difficulties in applying the competitive neutrality, what were they?

- The inability of the council to accept it is a valid process they should participate in
- Process for making changes to adopted businesses

### Session 3

Figure 11: Local government session 3 question 1

Has your organisation ever received a competitive neutrality complaint?

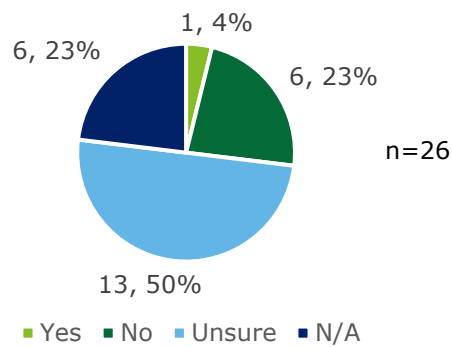


Figure 12: Local government session 3 question 2

If yes, how long did that complaint take to be resolved?

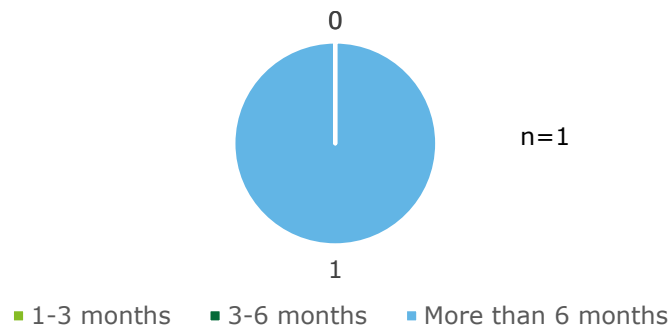


Figure 13: Local government session 3 question 3

Does your organisation have a complaints process and designated responsibility for Competitive Neutrality?

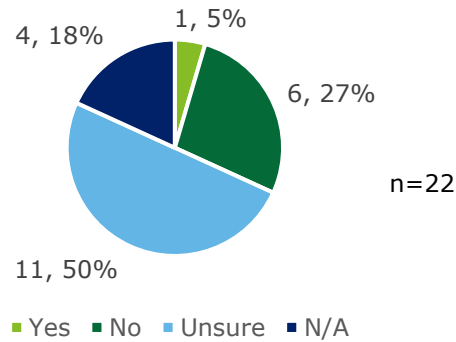


Figure 14: Local government session 3 question 4

How could the competitive neutrality complaints process be improved?

- Training
- IPART to regulate regional water businesses
- Standard process mediation
- Examples of how complaints handling processes set up in orgs that have them
- Readily available information about the process
- Education for councils
- There doesn't seem to be a case that there is a problem to be fixed
- Allow for anonymous complaints

**Session 4**

Figure 15: Local government session 4 question 1

Does your organisation have information about competitive neutrality on its website?

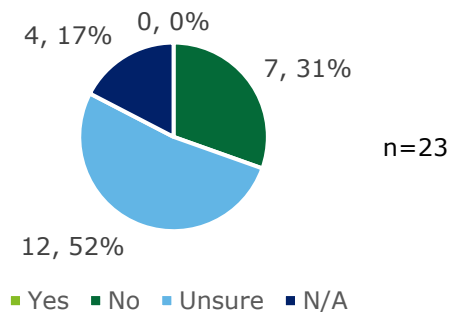


Figure 16: Local government session 4 question 2

How could the competitive neutrality complaints process be improved?

- Could IPART provide a general template for councils to upload to their websites?
- Awareness more important than the reporting statistics
- Standardisation, templates
- Annual report requirements as part of Annual Report
- Different reporting requirement for services such as water and sewer compared to caravans and gyms could help
- Reporting seems fit for purpose
- Templates may be useful

Figure 17: Local government session 4 question 3

Is there any disadvantage to government businesses releasing information about costs?

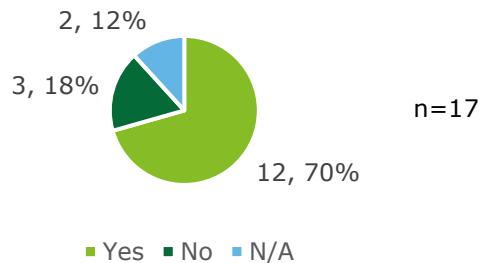


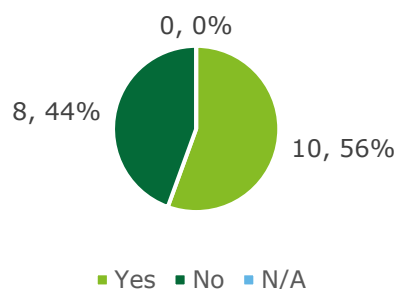
Figure 18: Local government session 4 question 4

If there are disadvantages to government businesses releasing information about costs, what are they?

- Can be advantageous for private sector competitors
- Gives the competitor more information than would otherwise be available
- Council already publishes its financial reports on a quarterly and annual basis
- More work if over and above current reporting requirements / business sensitivity
- Depends on the level of detail - competitors could work out things that you would prefer not to share
- Government should be transparent
- Additional costs gathering data, responding to public questions (often unreasonable volumes), increased work and associated costs, reduced effectiveness of competition

Figure 19: Local government session 4 question 5

Should the costing approach, or even the full costing, of government businesses be published?



## State government business workshop

### Session 1

Figure 20: State government session 1 question 1

Among your colleagues, what is the level of awareness of competitive neutrality?

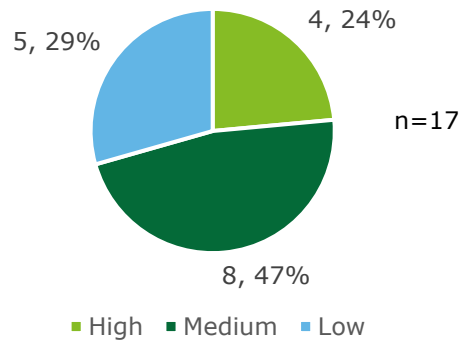


Figure 21: State government session 2 question 2

Have you ever had an experience with a competitive neutrality complaint from the private sector?

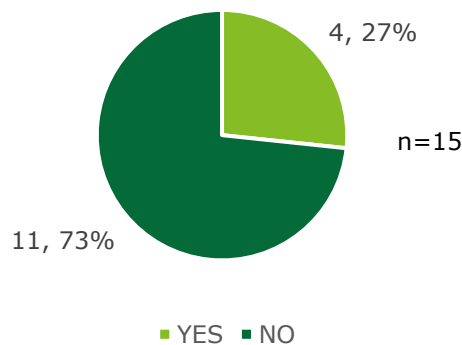


Figure 22: State government session 2 question 3

If you answered yes to the previous question, could you explain what happened in a couple of dot points?

- Private business complaint against govt funded/subsidised services
- Research was required to confirm non breach

## Session 2

Figure 23: State government session 2 question 1

Are the competitive neutrality tests understood in your organisation?

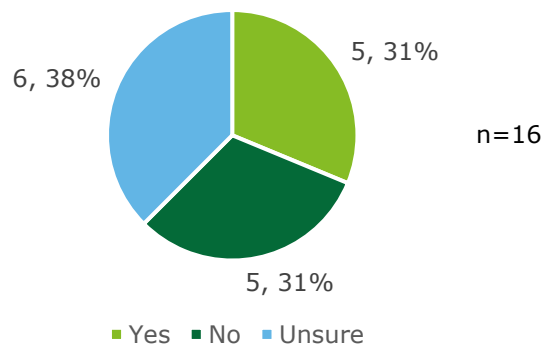


Figure 24: State government session 2 question 2

What would help your organisation applying the competitive neutrality tests?

- Reduce complexity - keep it simple for adoption
- A go to service for advice
- Criteria and decision trees
- Clearer guidance as to when it has to be approved and the test itself

Figure 25: State government session 2 question 3

Have you encountered any difficulties in applying the competitive neutrality tests?

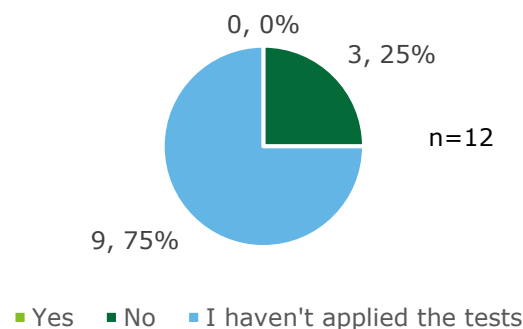


Figure 26: State government session 2 question 4

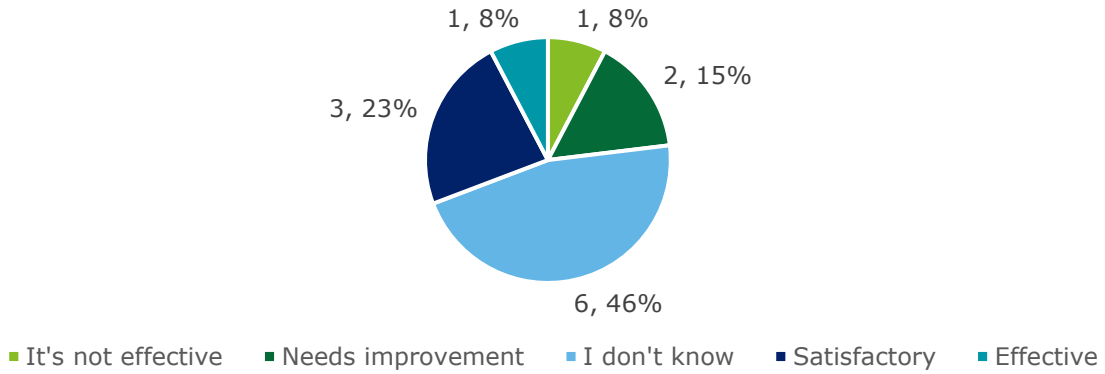
If you have encountered difficulties in applying the competitive neutrality, what were they?

- In person response centre



Figure 27: State government session 2 question 5

On a scale from 1-5, how effective are the application tests for competitive neutrality?



### Session 3

Figure 28: State government session 3 question 1

Has your organisation ever received a competitive neutrality complaint?

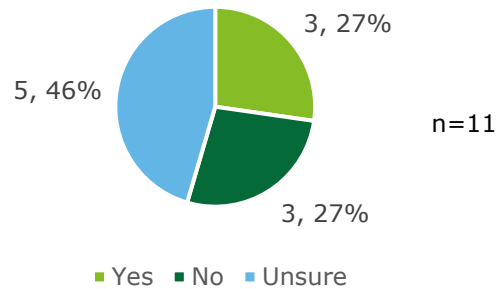


Figure 29: State government session 3 question 2

If yes, how long did that complaint take to be resolved?

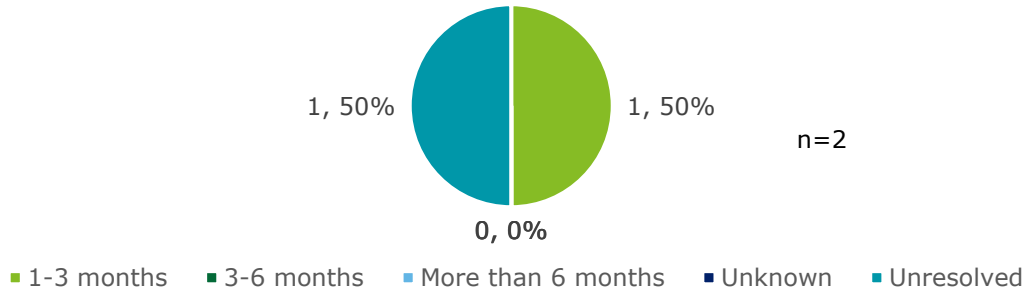
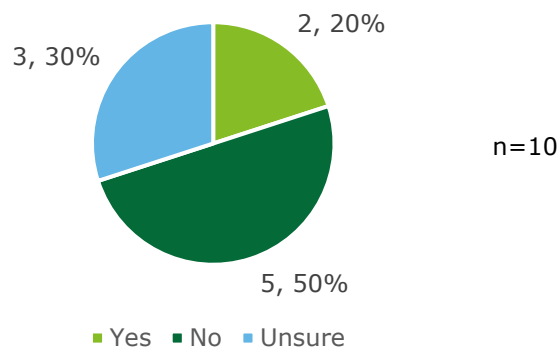


Figure 30: State government session 3 question 3

Does your organisation have a complaints process and designated responsibility for competitive neutrality complaints?



#### Session 4

Figure 31: State government session 4 question 1

Does your organisation have information about competitive neutrality on its website?

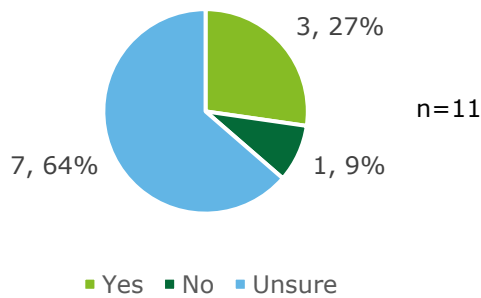


Figure 32: State government session 4 question 2

If yes, how often is this information updated?

- Annually

Figure 33: State government session 4 question 3

Are there any disadvantages to government businesses releasing information about costs?

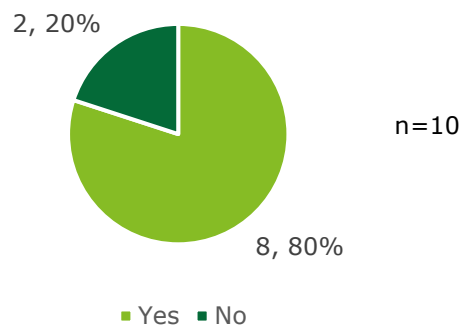


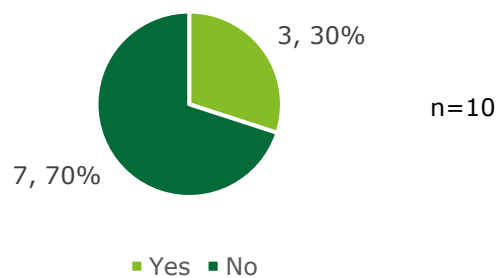
Figure 34: State government session 4 question 4

If there are disadvantages to government businesses releasing information about costs, what are they?

- Reporting effort
- May impact on commerciality
- Commercial impact
- Giving sensitive business information to competitors
- Impact negotiations with other parties
- Commerciality
- Potential to divulge info that may compromise competitive tenders (e.g., estimated cost of activity)

Figure 35: State government session 4 question 5

Should the costing approach, or even the full costing, of government businesses be published?



## Non-government business workshop

### Session 1

Figure 36: Non-government business session 1 question 1

Among your colleagues, what is the level of awareness of competitive neutrality?

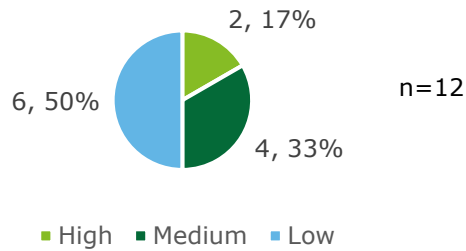


Figure 37: Non-government business session 1 question 2

Which government-run businesses are you aware of in your work?

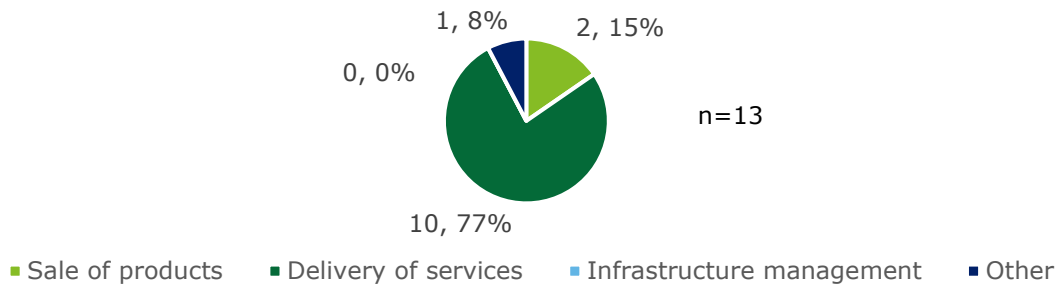


Figure 38: Non-government business session 1 question 3

Have you had any experiences with government business activities not charging full costs for services?

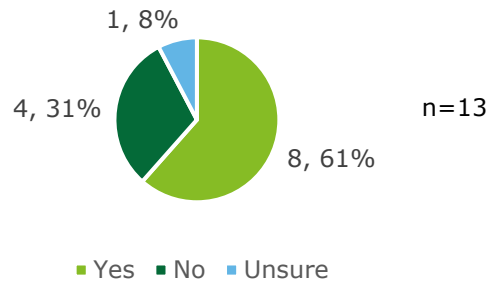


Figure 39: Non-government business session 1 question 4

If you answered yes to the previous question, could you explain what happened in a couple of dot points?

- Charging below breakeven cost to provide services
- Implied reliance on consolidated revenue
- State government funding other services or funding services that are not profitable just to keep running
- SOE not requiring risk-adjusted return of capital. And their cost of capital is artificial low (ROE and Debt)
- Significantly undercut private enterprise competitors
- Subsidising costs to consumers (waiving insurer excess charges for services funded by private health insurers)

## Session 2

Figure 40: Non-government business session 2 question 1

On a scale from 1-5, how effective are the application tests for competitive neutrality?

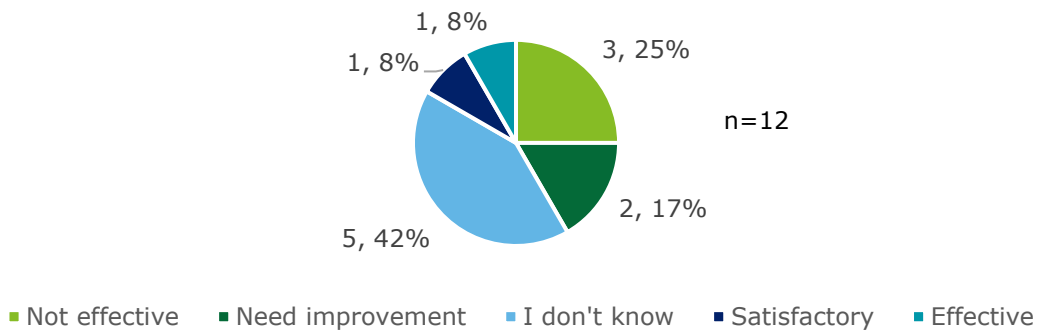


Figure 41: Non-government business session 2 question 2

Could you explain why you chose your answer to the previous question?

- Point 3 of the test doesn't provide a time period i.e., short term benefit for longer term detriment
- No understanding by complainants about evidence needed
- Have not seen how it actually works
- Unable to determine effectiveness
- In our business competitive neutrality is a constant question staff ask when relevant
- Not much exposure to the process
- No awareness of successful applications
- Defensive agencies not wishing to entertain complaints

Figure 42: Non-government business session 2 question 3

When should these tests apply?

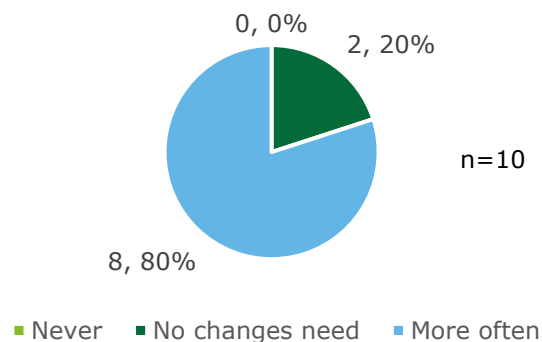


Figure 43: Non-government business session 2 question 4

Are there approaches to competitive neutrality in other jurisdictions that NSW should follow?

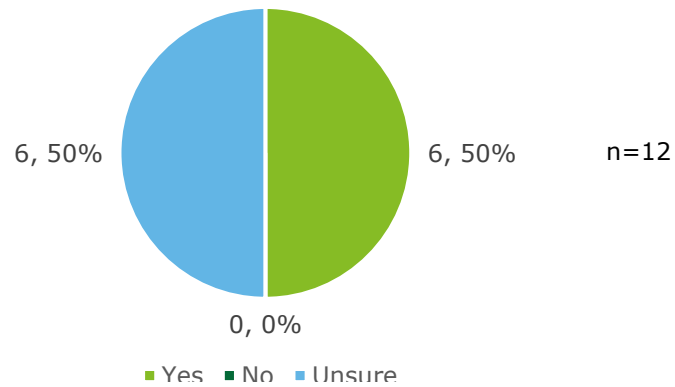


Figure 44: Non-government business session 2 question 5

If you answered yes to the previous question, could you explain how those policies are different to those in NSW?

- They don't require a referral to the relevant minister who can say it doesn't apply
- SA process explained in issues paper superior
- Tasmanian process also okay
- Requirement to apply published principles
- Intervention by Economic Regulator
- Contract the business out to private enterprise
- Government shouldn't run businesses (they're not good at it and it's unfair)

**Session 3**

Figure 45: Non-government business session 3 question 1

Before today's session, did you know how to make a complaint?

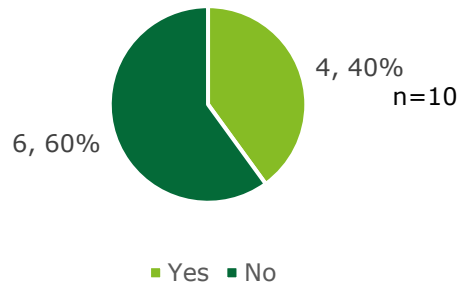


Figure 46: Non-government business session 3 question 2

Have you made a competitive neutrality complaint?

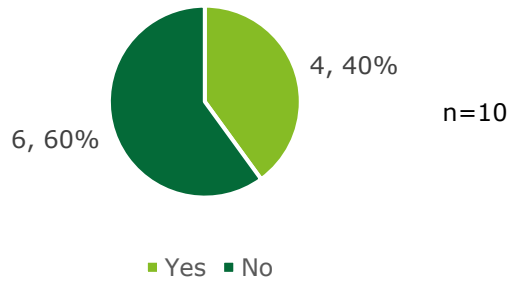


Figure 47: Non-government business session 3 question 3

Do you know of anyone who has ever made a competitive neutrality complaint and if so what was the outcome?

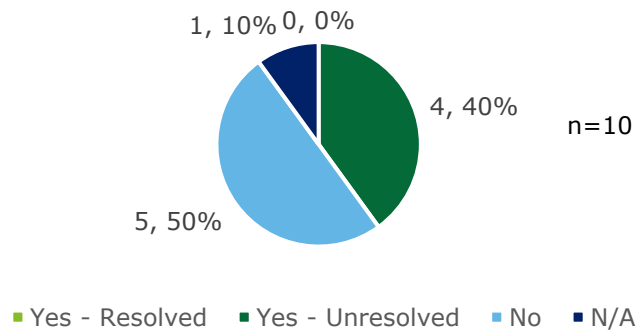




Figure 48: Non-government business session 3 question 4

### What do you see as the key barriers to making a complaint?

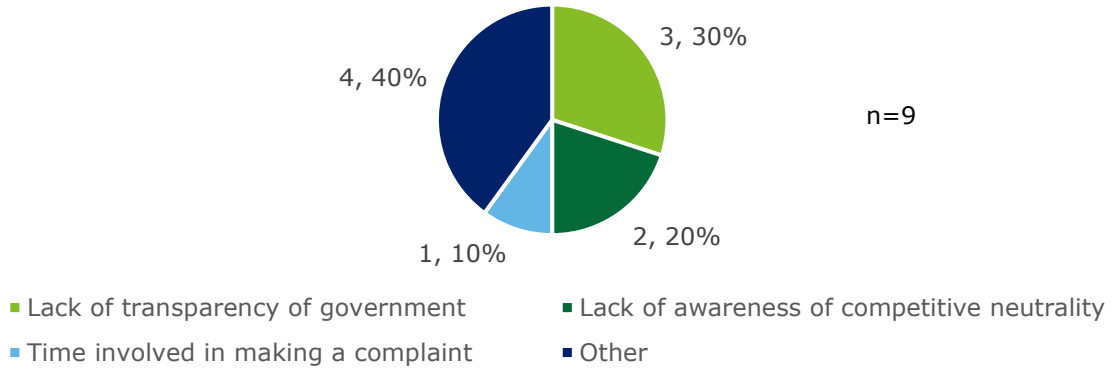
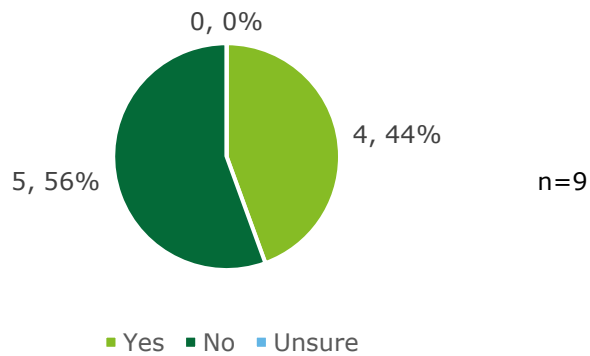


Figure 49: Non-government business session 3 question 5

### Have you had cause to make a complaint but not known it was an option?



**Session 4**

Figure 50: Non-government business session 4 question 1

Is there enough public information to work out if a government business is correctly applying competitive neutrality principles?

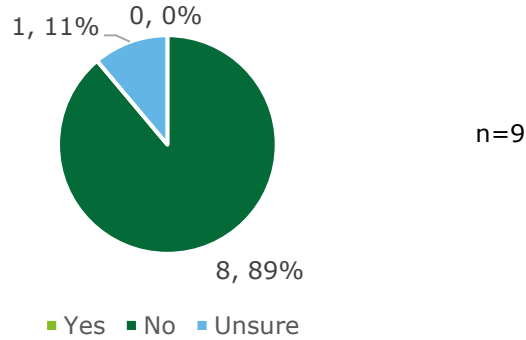


Figure 51: Non-government business session 4 question 2

If no, what information would you need?

- P&L statements, justification of pricing
- One page summary with link to detail
- Statement of principles, who is responsible for administering the overall program
- Being provided the information to assess whether the govt entity was competing in a competitive neutral way
- A simple cheat sheet/summary of the competitive neutrality principles
- Clear guidelines and simpler complaints process.
- Proper annual reporting

Figure 52: Non-government business session 4 question 3

Where should such information be published?

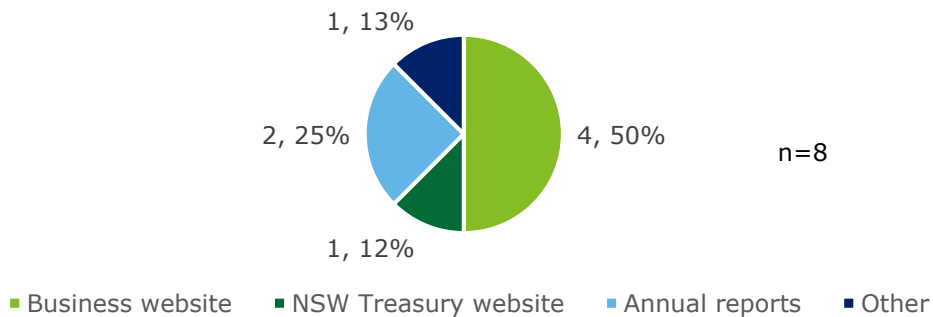


Figure 53: Non-government business session 4 question 4

Should government businesses be required to explain how competitive neutrality principles apply to them?

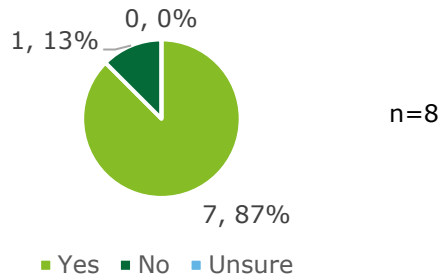


Figure 54: Non-government business session 4 question 5

Should government be required to explain how competitive neutrality principles DO NOT apply to them?

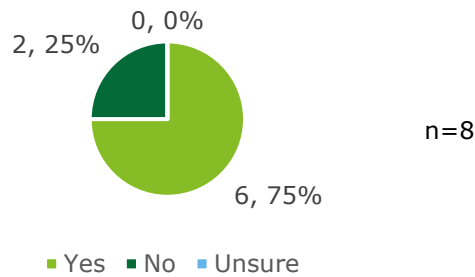
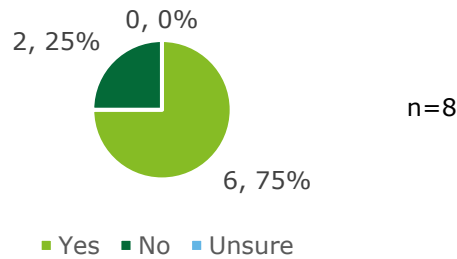


Figure 55: Non-government business session 4 question 6

Should costing information such as the costing approach, or even the full costing, of government businesses be published?



# 13. Limitation of our work

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