

10 January 2023

The Hon Victor Dominello MP  
NSW Minister for Customer Service  
Parliament of New South Wales  
52 Martin Place  
SYDNEY NSW 2000

Dear Minister Dominello,

**Re: Submission to the Draft Terms of Reference for the  
Review of NSW Early Childhood Education and Care  
Affordability, Accessibility and Consumer Choice**

The Australian Childcare Alliance (ACA) NSW is the largest peak body representing the privately-owned early childhood education and care sector serving over 1,600 services primarily across New South Wales. Our members collectively employ over 25,000 staff and support over 125,000 families.

Firstly, we want to thank you and the NSW Government for requesting the Independent Pricing and Regulatory Tribunal (IPART) to assess affordability, accessibility and consumer choice in the NSW early childhood education and care (ECEC) sector.

In parallel with the ACCC Pricing Inquiry, this IPART Review is unique and vitally important after now 10 years of the [National Quality Framework](#) that came into effect on 1 January 2012.

For a decade, there has been common misunderstandings of assuming national consistency. Ironically, the following independent NSW Government agencies' publications confirm that the NSW version of the National Quality Framework imposes higher regulatory requirements than all other Australian states that impact on affordability, accessibility and consumer choice:

- NSW Productivity Commissioner's [Green Paper](#) (August 2020)
- NSW Productivity Commissioner's [White Paper](#) (May 2021)
- NSW Productivity Commissioner's [Evaluation of NSW-specific early childhood regulations](#) (December 2022)
- NSW Small Business Commissioner's [Small business experiences in the early childhood education and care sector](#) (September 2022)

Hence, in addition to the draft terms of reference for the IPART Review, we ask for the following to also be included:

1. Determining financial and non-financial offsets to childcare services for additional operational costs of NSW's higher regulatory requirements compared to all other Australian states (see NSW Productivity Commissioner's [report](#) showing \$3,000 per child per year in additional cost compared to all other Australian states that ultimately impact on fees charged to parents.
2. Calculating the differences in fees charged to parents due to taxation requirements on different ownership/governance models. For example, childcare services owned/operated by not-for-profit organisations (including local governments) generally do not pay (much) tax and can therefore reduce fees and/or pay their staff and governing bodies more. Taxes include NSW payroll taxes.

3. Estimating the cost to parents and childcare services for not having a NSW planning process to effectively align new childcare supply to genuine projected demand while assessing existing approved places within the respective catchments. This is in part reflected in the NSW Parliament passing the [Childcare and Economic Opportunity Fund Bill 2022](#), in particular s5(1) and s6(1). Moreover, it is understood that childcare oversupply has the effect of increasing fees for parents (see the Australian Financial Review article, "[Why your childcare fees aren't falling in an oversupply](#)" dated September 2018).
4. Quantifying the increased cost to parents due to regulatory inefficiencies, inflexibilities and inconsistencies identified by the NSW Small Business Commissioner's [2022 Report](#), in particular appropriate staff-break provisions, consistency of quality ratings and waiver application processes.
5. Establishing additional financial and regulatory assistance from the NSW Government to childcare services so as to address the 5-10 years of misalignment between existing and expected outcomes (as publicly stated by the [NSW Department of Education](#) and the [Federal Minister for Education](#) that 40%-45% of preschool children are not developmentally on track upon entering school).

In addition to affordability, accessibility and consumer choice considerations, ACA NSW also asks that the NSW Government consider the IPART Review in terms of the educational as well as physical, social, emotional language and communication outcomes of children in their early childhood years.

ACA NSW remains concerned that the existing regulatory requirements compels early childhood education services to function in defined ways that appear to be not fully in alignment with NSW and Federal Governments' expectations of children upon entering school.

Ironically, the then Federal Government had tasked a [Preschool Outcomes Measure Expert Advisory Group](#) in September 2021 to produce a report by early 2022. This report was not publicly released. And the new Federal Government extended the tenure of this Preschool Outcomes Measure Expert Advisory Group and revised its [terms of reference](#) to instead offer ongoing consultation and provide evidence-based advice and support to the Federal Minister.

IPART should consider the perpetuation of the misalignment of outcomes and expectations as being undesirable for children, service providers, parents and schools. Moreover, all of the above misalignments and higher regulatory requirements ultimately impacts affordability, accessibility and consumer choice.

Should you or IPART require any further information or clarification, please do not hesitate to contact us.

We thank you for the opportunity for us to make a submission to the Draft Terms of Reference for the IPART Review. And we look forward to the IPART's findings.

Yours sincerely,

  
Chiang Lim  
CEO 