

22 October 2021

Ms Jennifer Vincent
Director, Pricing
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop NSW 1240

jennifer.vincent@ipart.nsw.gov.au

Dear Jennifer

REVIEW OF FIRE AND RESCUE NSW'S FEES AND CHARGES

Thank you for meeting with the Shopping Centre Council of Australia (SCCA) on 14 October 2021 to discuss the Independent Pricing and Regulatory Tribunal's (IPART) review of Fire and Rescue NSW's (FRNSW) fees and charges (the Review).

The SCCA is the national industry group representing major shopping centre owners and managers. The SCCA is comprised of 26 member organisations, including all major shopping centre owners. SCCA members own or co-own over 510 shopping centres in Australia, which represents around 68 percent of the total lettable retail floorspace of Australian shopping centres.

The SCCA first became aware of the Review on 28 September; accordingly we appreciate the extended timeframe for making this submission. We have canvassed the views and experience of our members in preparing this submission, which focusses on FRNSW's attendance at automatic fire alarms that are false alarms.

Summary

The SCCA submits that landlords should not be charged for false alarm call outs and that the NSW Government should examine fire safety system design and requirements, which contribute to unnecessary resource implications for FRNSW and financial penalties/costs passed on to diligent, compliant users.

Context

Shopping centres maintain highly sophisticated and sensitive fire safety systems, as required by Australian Standards and the Building Code of Australia (BCA). Shopping centres are unique environments, characterised by very large indoor spaces, the capacity to accommodate large crowds, a diverse mix of tenants and uses, certain elements of building design (open air, multi-level, significant car parking capacity, a legacy of redevelopments, numerous entry/exit points etc.), close proximity to public transport.

These characteristics have a flow on effect. A typical regional (mid-sized) shopping centre may contain up to 3,000 smoke detectors and may experience from 1-2 call outs per month to the same number per week, depending on building design and location. Our members' experience is that around 95 percent of all call outs are for false alarms, typically the result of an environmental change (for instance, a rush of wind through open doors containing dust or other air pollution). Environmental factors are beyond the control of shopping centre landlords and tenants, as the design and location of fire safety systems are prescribed.

FRNSW have discretion as to whether a call out fee is ultimately charged, including where no fault is detected. Shopping centre landlords take a fair and reasonable approach to on charging with respect to tenants and system maintenance contractors.

Issues

The SCCA is concerned that IPART may advise the NSW Government that an increase in fees and charges, and maintenance of the status quo (that is, continued charging for calls outs where no fault is detected), is appropriate. The following issues are pertinent with respect to the Review:

- Shopping centres operate highly sophisticated and sensitive fire safety systems, in strict accordance with government requirements.
- Shopping centre landlords make significant financial contributions to the Emergency Services Levy (ESL), on account of high land valuations for these assets.

- Additionally, significant costs are associated with maintaining complex fire and alarm monitoring systems, which are tested and certified each year to maintenance and performance standards. FRNSW also has a discretionary capacity to seek a further financial contribution/penalty (in this instance, for matters that are effectively outside of our members' control or capacity to mitigate).
- Approximately 95 percent of call outs to shopping centres attended by FRNSW are for false alarms with no known cause, but typically when environmental factors trigger these systems. This is evidenced but FRNSW reports and obscuration readings taken immediately after a call out, which typically show systems to be operating within required tolerances/parameters.
- This is a known issue that creates a time and resource burden for FRNSW. Arguably the design/location and sensitivity of these systems gives rise to a significant majority of false alarms, not system faults or activities of landlords/tenants, and financial penalties are attributed regardless.
- Discretionary fees and charges attributed where a cause or fault cannot be determined, and as a consequence of compliance with Australian Standards and the BCA, is inherently flawed, inequitable and should not reasonably be directly charged.
- IPART is seemingly constrained by not being able to consider the ESL in tandem with fees and charges alone. This would provide for further consideration of, for instance, incorporating the costs of false alarm call outs, to more equitably disperse what are unfairly attributed costs. Additionally, a broader discussion and subsequent advice to the NSW Government about addressing the inherent inefficiencies of the status quo.

Conclusions

The SCCA considers that fees and charges should not be levied against shopping centre landlords where a fire safety system has operated and is working within its operational tolerances, such as obscuration levels within smoke detectors. If the cause of a callout is vandalism, negligence or lack something preventable (such as forgetting to isolate a smoke detector) then it is appropriate that specific fees and charges apply.

We consider that the NSW Government should reconcile the root cause of false alarms as higher fees and charges is not a disincentive and would serve only to subsidise FRNSW's annual revenue while not addressing a fundamental operational issue.

Recommendations

Accordingly, we make the following recommendations:

- Fees and charges for false fire alarm callouts, where no fault is detected, should be removed or revised.
- While out of scope, IPART should consider and advise the NSW Government with respect to attendance at false fire alarms being captured by the ESL, so that costs are more equitably distributed. Financial penalties for 'at fault' call outs are appropriate
- IPART and the NSW Government should liaise with FRNSW and other government agencies to reconcile the requirement for highly sophisticated and sensitive fire safety systems with the significantly increased likelihood of resulting call outs.

Thank you again for your consideration. Please do not hesitate to contact me on [REDACTED] or at jnewton@scca.org.au if any clarification or follow up is required.

Yours sincerely,

[REDACTED]

James Newton
Manager – Policy and Regulatory Affairs