

15 August 2022

Independent Pricing and Regulatory Tribunal
Level 16, 2-24 Rawson Place
SYDNEY NSW 2000

Online submission

To whom it may concern

IPaRT Review of NSW Competitive Neutrality and Process

Urban Taskforce believes the principle of competitive neutrality to be critically important in ensuring the transparency and accountability of Government to the taxpayers of NSW. Further, at its heart, the very concept represents an acknowledgement that Government, as the rule setter (or gamekeeper) should act fairly (or in a neutral fashion) when Government agencies are competing (as a poacher) for access/approvals from Government. This is the essence of the "poacher/gamekeeper dichotomy.

For optimal decision making in Government, it is crucial that the cost of public sector delivered goods and services can be easily compared and measured against similar goods and services provided by the private sector. Where there is a competitive private sector market, there is no reason why government should be involved.

Competitive neutrality policies require governments to account for the full cost of providing goods and services and make the value of any taxpayer subsidies explicit. They also oblige government to treat itself as it would any private sector competitor.

Without an effective advocate for and enforcer of competitive neutrality within government, government businesses be able to set a lower price for their goods/services and gain an unfair advantage.

The very idea of "competitive neutrality" seems to have all but disappeared in the context of the NSW Government.

If one takes a concern regarding the behaviour of a government agency to the NSW Treasury (once the doyens and guardians of competitive neutrality) they look at you without any understanding or empathy for the concept. Eventually, they refer you to someone in Finance but there is no drive or enthusiasm for the policy.

There are numerous examples of Government favouring its own entities over private sector competitors. It is almost as though they are proud to have delivered the taxpayer a favourable result, without considering the cost to private sector competitor and those they employ, and others associated with them.

Urban Taskforce is particularly concerned to see the application of competitive neutrality when government regulatory authorities are dealing with matters associated with the delivery of housing.

Urban Taskforce welcomes the involvement of Government in housing to correct clear examples of market failure like, for example, in the supply of social housing.

Industrial zoned land

The Government's Retain and Manage policy in relation to industrial zoned lands would appear to be selectively applied. Urban Taskforce is disappointed that a raft of industrially zoned lands has been effectively sterilised for future residential development, even though they are located in areas with superior transport infrastructure and high amenity and have been rendered sterile sites employing very few staff over a long period of time because of the size/shape/surroundings of those sites making inappropriate for industrial use.

Yet when it comes to Government owned land, for example the Paintshop precinct owned by the Transport Asset Holding Entity of NSW (TAHE) at Everleigh/Redfern, this proposal would be unlikely to get off the ground under the punitive "Retain and Manage Policy" set by the Greater Cities Commission.

While the Urban Taskforce supports the redevelopment of this TAHE owned site, and in fact believes greater height and density should be pursued, it is concerned that different rules appear to apply to the private sector viz-a-viz the public sector when it comes to industrial land. The key is: everyone must be treated equally.

Greenfield land releases

The Urban Taskforce is further concerned that the Government's own land developer, Landcom, appears to receive preferential treatment when it comes to residential land releases. Our members are concerned that this occurs despite there being available private sector alternatives in the region that are readily available.

Model litigant policy

A final matter that IPART should consider is the behaviour of the Department of Transport in relation to the compulsory acquisition of land for transport projects. The Legislative Council recently released a report highly critical of the culture and actions of the Department in this matter and makes 10 recommendations, including an independent review into certain land acquisitions around major transport projects, as well as measures to improve culture, transparency and ensuring negotiations are carried out in good faith.

There is a perception, reflected in the recent Parliamentary Inquiry report, that TfNSW, in conjunction with the office of the valuer general, is pursuing acquisition in in poor faith, often involving ludicrously low initial offers, drawn out processes, all causing the maximum stress for those whose land is being acquired.

The imperative appears to be driven by financial gain for the government (the acquiring authority) rather than dealing with acquisitions in a highly sensitive and ethical manner which is expected of the private sector. This is yet another case of the apparent abandonment of the concept of government acting as a neutral player and it is doing so at the expense of landowners.

The Urban Taskforce believes that this illustrates the Government's failure to maintain its crucial role as a model litigant in these matters.

The policy of competitive neutrality needs to be re-asserted. The complaint handling process is weak, and the practical reality is that most agencies completely ignore it. Customer Service or even IPaRT are extremely unlikely to hold up a complaint against the behaviour of DPE or TfNSW.

There is a desperate need for an education program for all NSW public service agencies and authorities.

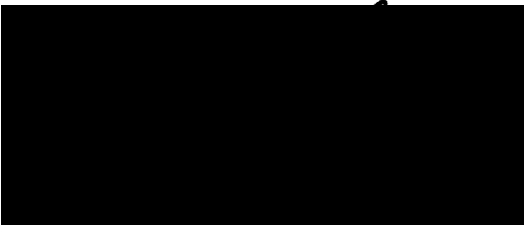
An agency needs to be empowered with enforcing this policy with a clear pathway to Court action where it is alleged to have been breached.

Breaches of this policy need to be published and individuals or agencies responsible should be strongly sanctioned.

This effective policing of competitive neutrality is essential to the fair operation of government in NSW. Urban Taskforce welcomes this review and looks forward to seeing this concept re-introduced to the lexicon and practice of the NSW public service after years of remission.

Should you wish to discuss this submission, please contact the Urban Taskforce's Head of Policy, Planning and Research, Mr Stephen Fenn, on 9238 3969 or by email stephen@urbantaskforce.com.au.

Yours sincerely



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