



Lane Cove Council

48 Longueville Road, Lane Cove NSW 2066

Tel: 9911 3555

Fax: 9911 3600

Date: 19 July 2019
Ref: 42299/19

Independent Pricing and Regulatory Tribunal
Level 15, 2-24 Rawson Place
SYDNEY NSW 2000

SUBMISSION TO IPART – REVIEW OF COSTS OF CONDUCTING LOCAL GOVERNMENT ELECTIONS

Thank you for the opportunity to comment on the recently released Draft Review of Costs of Conducting Local Government Elections. Council supports the proposed recommendations for longer term legislative reforms which are aimed at increasing competition in the provision of election services within the existing, near monopoly market. It is agreed that in the longer term this offers the potential to increase innovation, provide councils with more choice and reduce costs.

However, the recommendations associated with implementing the proposed 'impactor-pays' funding hierarchy, especially prior to the 2020 Local Government Election, are of significant concern to Council. Particularly, the significant financial impacts the implementation of these recommendations will have on council's in the short term being an average 62% increase in election costs for the next election. Key issues of concern and comments from Council include the following:-

- The allocation of direct costs using the '*impactor-pays*' principle is supported, so long as the costs can be reasonably identified as being relevant to the local government area (e.g. clearly itemised, and not bundled as is the NSWEC current practice).
- The allocation of indirect costs based on this hierarchy is not supported and appears to be a further cost shifting exercise based on flawed rationale. The NSWEC primarily exists to conduct state government elections, deal with political participants and donations as well as educate the public on democratic purposes. A large proportion of the indirect costs would be incurred in supporting these services regardless.
- Whether funded by the State Government or local councils, the costs are ultimately borne by the public regardless of whether they are defined as NSW taxpayers or council ratepayers. Further cost shifting to councils, who already operate in a constrained financial environment due to rate-pegging, cost shifting and state and federal funding arrangements that are no longer fit for purpose, is considered inappropriate.
- Any costs for staffing attributed to councils election costs should be at cost and not include other overheads which the NSWEC should bear as an employer. For example, for the 2008 Elections, the NSWEC charged an exorbitant average rate of \$195.00 per hour for all staff used, far in excess of normal staff costs.

- In the context of the Draft Review, the *'impactor'* has been defined as councils. It is debatable as to whether defining council's as the *'impactor'* is appropriate given that Local Government election activities and the current market constraints are a direct result of state government policy, procedures and legislation.
- The recommendations and impacts of applying this cost methodology, appear to be at cross purposes with the intent of the review, which *'is required to minimise the financial burden on councils and ratepayers, while also encouraging the NSWEC to provide its election services in an efficient and cost-effective manner.'*

It is noted the proposed *'impactor-pays'* funding hierarchy, and particularly the shifting of *'capital related costs and overheads'* in NSWEC estimates to councils, has been recommended to help ensure that the NSWEC is not unduly advantaged or disadvantaged in competing with private providers of election services.

The justification for this cost shifting being that if the NSWEC were a private company operating in the sector they would be transferring these costs to their clients, as such, not including provision for this would give them a competitive advantage.

However, council's currently engaging alternate service providers have reported substantial cost savings in their election expenditure. This is largely attributed to the flexibility private operators have to deliver a hybrid model - where Council's work with the operator to utilise their resources in the most efficient way possible. The NSWEC however, does not offer this flexibility of service and has commented that to do so would result in even higher costs as it would require additional resources to accommodate customisation across different LG areas. It could be reasonably assumed, given the above, that the proposed funding hierarchy the costs of using the NSWEC would likely:-

- Place the NSWEC at a greater commercial disadvantage in the market creating greater pricing disparity when compared with current rates offered by private operators; and/or
- Provide private operators with an opportunity to increase their pricing and profit margins whilst remaining competitive with the inflated NSWEC pricing - ultimately resulting in higher costs for councils (and ratepayers), regardless of the options pursued.

It is also considered that as the NSWEC is funded by the State Government, it is therefore not competing on a level playing field in any event.

- The NSWEC maintains the residential electoral rolls that private providers require to deliver election services. There is an inherent competitive advantage resulting from this function which cannot be matched by private operators, primarily increased access to this information. Whilst subsection 298(3) of the Local Government Act 1993 provides that the residential electoral roll is provided to a general manager 'as soon as practicable after the closing date for an election' further legislative changes should be implemented to require the NSWEC to provide residential electoral rolls within a clearly legislated and reasonably prompt timeframe to help minimise this advantage.
- As noted by Local Government NSW, "The NSWEC, as a NSW Government agency, is likely to be privy to policy development or details of potential legislative changes in advance of private sector providers. Conferring a competitive advantage in terms of planning for elections and potentially avoiding costs."
- The competition imbalance is further evidenced by the tendering requirements that must be satisfied when opting to use a private operator over the NSWEC which

provides competitive advantages to the NSWEC which is contrary to the level playing field principle.

- It is noted that increasing the tender threshold to \$250,000 does not negate the need for competitive tendering amongst private operators for a large number of councils including Lane Cove, where both the NSWEC proposed and IPART recommended costings for the 2020 elections exceed this threshold. Undertaking this process results in further diversions of council resources and costs to rate payers, increasing the attractiveness of engaging the NSWEC.

Council strongly supports the proposed recommendations for longer term reforms which are aimed at increasing competition and innovation providing councils with more choice and reducing costs in relation to the provision of election services.

- The engagement of a private operator has many benefits for our local community in addition to cost savings currently experienced by councils utilising these services. These include support for local economy by using local suppliers and hiring election staff locally, greater ability to identify and utilise appropriate council resources and assets (including accessible venues) and increased ability to tailor the delivery of election services to meet the needs of our local community.
- It is acknowledged, however, that the market for private election operators will continue to be limited. There is no mechanism available to expand into any other government sectors and local government elections are limited to a four (4) year cycle (plus ad-hoc by elections where required).
- In considering sector reforms regard should also be had to mechanisms for enhancing the perception of independence in conducting local government elections via private operators. This is vital in ensuring public confidence in the electoral process is maintained. Well-established, transparent private operators who can demonstrate the capacity to reliably conduct local government elections are required and will be more attractive to councils.

It is noted that, given the timing of IPART's Review it will not be possible for the proposed regulatory reforms to be implemented prior to the 2020 election but rather in the longer term to better facilitate market competition post 2020. Council therefore, considers it appropriate to defer any changes to the funding methodology of the Local Government Elections until after the reforms have been implemented and have had time to come into effect.

- If implemented, IPART's recommendations will result in a 55% increase in the expected cost of the 2020 Lane Cove Local Government Election, compared with the 2017 election cost from \$192,000 in 2017 to \$297,000 in 2020. Ironically, the NSWEC own proposal would result in an increase of only 33% to \$256,000 in 2020.
- Whilst it is noted that increased cost of administering elections on a per residential assessment basis for a typical council, is considered by IPART to have a 'relatively modest' impact on ratepayers, and 'account for a small proportion of councils' total costs', the timing of the review has not afforded councils sufficient time to appropriately prepare for the substantial increases proposed.
- Whilst Council contributes funds to its reserve annually to cover anticipated election costs, given the significant increase to the expected costs additional funding will be required.
- Should the recommendations be endorsed, Council would consider the need for '*transitional funding*' or a subsidy from the State Government appropriate. This would assist council's in funding the unforeseen and substantial increase in costs for the 2020 election. This funding should, at a minimum, align with the difference in value of the

NSWEC proposed costs and the IPART recommended pricing (i.e. for Lane Cove 16%, \$42,000). It is agreed that this mechanism would ensure maximum transparency envisaged through applying the *impactor pays* hierarchy whilst acknowledging that it is not reasonable for councils to bear the cost of long term State Government policy, procedures and legislation.

IPART's issues paper notes that non-voting services (i.e. fine administration services) are provided by the NSWEC at no cost to councils. Council supports LGNSW's position that *"There is merit in IPART considering the NSWEC's costs of administering non-voting services and whether the revenue received in relation to failure to vote fines (over \$9M from 2016-2018) could be used to offset the costs of local government elections"*

Should you require any clarification of Council's submission, please contact myself on [REDACTED]

Yours sincerely

[REDACTED]

Craig Dalli
Executive Manager – Corporate Services