

## Submission on Review of Local Government Election Costs

Thank you for the opportunity to comment on the draft review of local government election costs.

Northern Beaches Council appreciates the measures taken by IPART to reduce the efficient cost of election services provided by the NSW Electoral Commission (NSWEC), however considers the significant shifting of the costs of elections from state government to local communities unacceptable.

Council recommends IPART:

- postpone any increase in the cost burden on local government until there is viable market competition in election services
- revisit its position of local government as the primary 'impactor'
- consider and provide certainty that the additional hidden costs of regulating the quality of all service delivery providers will not be passed onto councils
- factor the hidden costs and potential inefficiencies that councils may bear by overlooking one or more private providers for its election services
- review the potential risks of unbundling of services in the end to end election system to ensure it does not have unintended cost and risk outcomes for councils
- note the potentially high burden of risk on councils of using private providers may pose a challenge for increasing market competition.

Some further comments are provided below.

### Context – elections as foundations of the democratic process

Northern Beaches Council supports actions to increase transparency and efficiency to the processes and costs of elections as they are fundamental to the process of effecting democracy.

For the same reason, it is important to ensure that changes to the election system do not have unintended consequences at a time when democracy and the social contract between citizens and institutions are increasingly tenuous.

The Pew Research Centre believes we are in a global 'democratic recession' and Australia has not been immune to this<sup>1</sup>. Research by the Museum of Australian Democracy (MoAD) in 2018 showed that satisfaction in democracy has more than halved in a decade and trust in key institutions and social leaders is eroding<sup>2</sup>.

In this context Council is acutely aware of the need to ensure the election process is as seamless, impartial and cost-effective as possible to maintain the community's faith in the integrity of the organisation.

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<sup>1</sup> Pew Research Centre, *Globally, Broad Support for Representative and Direct Democracy* <https://www.pewresearch.org/global/2017/10/16/globally-broad-support-for-representative-and-direct-democracy/>

<sup>2</sup> Stoker, G, Evans M, Halupka, M (2018), *Trust and Democracy in Australia: Democratic decline and renewal, Report No.1*. Museum of Australian Democracy. Old Parliament House. Canberra.

## Impactor principle

Council does not agree with IPART's determination that local government is the primary impactor.

The costs should be more equitably shared with state government as both levels of government are impactors and beneficiaries. In terms of allocating the indirect costs of elections, state government is the chief impactor as it regulates local government, sets the requirements and timing for council elections, and the NSWEC primarily exists to conduct state government elections.

Council questions why IPART would therefore require local government (ratepayers) to contribute 97% of the total cost of election services compared to the 62% proposed by the NSWEC.

## Increased costs and cost shifting

This proposal will impact on council's service delivery as the significantly increased cost of conducting elections will decrease the budget available to deliver services to the community.

Whilst IPART notes it "expects any impact on ratepayers to be modest" in consideration of council's total costs – there will still be a tangible reduction in services felt by the community.

IPART's proposal estimates Northern Beaches Council's costs for running the 2020 election to be \$1.8 million, \$686,000 more than the last election. This will require Council to make a difficult decision to reduce or remove important works such as improvements to sporting fields, traffic or flood mitigation works, all of which are in its current delivery plan which has been carefully planned and agreed with the community.

Such action erodes community confidence and trust in government.

This cost reallocation will be in addition to the recent and sudden increase in the NSW Emergency Services Levy which equated to an unexpected 12%, or \$600,000, increase on last year's levy, bringing the annual cost to \$6.2 million. Given this, Council was required to reduce its capital works program for Manly, having a detrimental impact on Manly as a tourist destination, and on the local community which supported the works.

Meanwhile direct state government charges continue to be shifted to council. For example, the combined cost of the Waste Levy, street lighting, Emergency Services Levy, Planning Levy and valuation fees total over \$20 million per annum for Northern Beaches Council. This is in addition to shortfalls in public library funding and pensioner rate rebates, the cost of managing regulatory burdens such as the operation of Independent Hearing Assessment Panels, enforcement of companion animal regulations, and the management of contaminated land, noxious weed and flood controls, and transfer of costs and responsibilities for crown lands and crown roads.

LGNSW's 2018 report on cost shifting calculated the accumulated total cost shifting to councils since its survey began 10 years ago at \$6.2 billion and it exceeds the estimated annual infrastructure renewal gap of \$500 million per annum.

Rate pegging does not keep up with the rate of cost shifting and councils are in the invidious position of accepting more costs with no avenue to offset them but reduce services to their communities. Indeed, IPART noted in its *Revenue Framework for Local Government* report in 2009 that control of local government revenues can limit the scope for councils to use local democratic processes to make local choices about the level and types of council revenues and council expenditures'.<sup>3</sup>

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<sup>3</sup> *Revenue Framework for Local Government*, IPART December 2009

## Timing

The timing of IPART's proposal will impact significantly as councils do not have sufficient time to reframe their budgets and delivery plans. There is also no strong competitive market for election services available to councils to offset any cost increases proposed for the 2020 election. Therefore, imposing higher costs before a competitive market is in place will see local government 'funding' a remedy for the lack of market competition in these services.

In implementing its Fit for the Future reforms, the NSW Government expects councils to be fiscally responsible and focus on managing and renewing their assets. Councils across NSW have been endeavouring to improve productivity, reduce costs and generate revenue to manage the impact of the reforms on services and programs.

## Hidden costs

IPART's review found that if impediments to competition are removed and competitive pressures increased, then the degree of regulatory oversight of local government elections could be reduced, but it also recommends establishing independent regulatory oversight of the performance of all providers (page 2 of the report).

Elections occur in a highly politicised environment, when the community's focus is squarely on the perceived benefits and failings of their public institutions and the manner in which those institutions conduct themselves. The need for regulatory oversight would appear to be more critical when the process has been opened up to competition and private entities are involved.

Creating a new system for independent oversight requires additional funding which would also shift revenue from local government – now absorbing a 62% increase in election costs – and away from service delivery for the community.

In the event councils opt to use inexperienced private providers to potentially reduce their election costs there are other considerations. There are additional costs associated with managing the risks, end to end service delivery and interdependencies of the unbundled components, procurement, contracting, compliance and ensuring quality service outcomes.

## Consideration of risk as a barrier to competition

IPART's review found that most local government election services are likely to be contestable (page 2). The market for private election services is limited to local government, companies, clubs and associations and currently it is understood there is only one private election provider. It does not apply to state and federal elections, nor election at any level of government in other jurisdictions.

As local government elections are infrequent, this limits the opportunities for private providers to gain experience and test their processes, systems, technology and in particular human resources, as there are particular skill sets required to manage complex functions like elections.

In its 2009 *Revenue Framework for Local Government*<sup>4</sup> IPART referred to the principles of fiscal federalism and good governance when it stated that 'goods and services that can be provided more efficiently as volumes increase should be provided by a higher level of government' and 'accountability is generally considered to be higher where a single level of government is responsible for delivery of a function or service'. The character of elections which occur across all councils in NSW at the one time would appear to fit these descriptions and thus place election responsibility in the jurisdiction of a level of government higher than the local level.

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<sup>4</sup> *Revenue Framework for Local Government*, IPART December 2009

Should it be decided the responsibility does rest with local government, IPART may consider proposing that opening up all elections, including state government elections, to the market would help develop the efficiencies and capabilities available from private providers.

While opening up a function such as election delivery to competition may eventually lead to efficiencies, there are also efficiencies and economies in using the established government provider, NSWEC as all councils benefit from the connectivity of the suite of services within a streamlined end-to-end process, consistency of approach and application, and efficiencies from centralised count centres. NSWEC clients benefit from the breadth and depth of NSWEC's experience, given it has run elections across NSW, from state-wide to elections for registered clubs, industrial and statutory boards and other organisations for many years.

Unbundling the suite of services creates additional work for councils to understand the various elements, negotiate parameters and costs to contract the services, and ensure the services link together for a seamless outcome.

Many components require particular expertise, such as the newly introduced Weighted Inclusive Gregory Method of counting, and cyber security controls. As each provider will only take responsibility for each component for which they are contracted, Council wears the risk of the whole not working as a system.

If Councils choose a private provider, the General Manager wears the risk and responsibility of delivering a valid election outcome. Given there is one private provider currently available to deliver election services, how do Councils ensure this provider has the capacity and capability when demand from the 2020 elections may suddenly exceed its capacity? If a commercial provider becomes unviable, and ceases operation, how will councils be able to conduct countback elections as this must be conducted by the returning officer or substitute returning officer who conducted the election at which the person whose departure created the vacancy was elected?

According to the Office of Local Government, this returning officer must be a 'natural person', indemnified by Council or with sufficient professional indemnity insurance in the event that an election is challenged or declared void, and available up to 18 months after the election for this purpose.

It will be important for the Office of Local Government to provide training to councils to ensure they have the skills to manage the tender and contract processes to engage an election provider. The electoral process is one of complexity and risk, particularly at the local government level, and as the General Manager of a council will be responsible for ensuring a valid election outcome, council staff will need to be confident in their capabilities to manage the process and mitigate the risks.

### **Other considerations**

The recent state and federal elections showed a significant increase in postal voting. IPART may wish to factor this, and other options for creating an efficient and cost effective election system.

LGNSW noted in its May 2019 submission on IPART's review that in 2017/18 the NSWEC issued almost \$26 million in fines for failure to vote and received almost \$5 million in paid fines.<sup>5</sup> Has this revenue been factored into reducing the election costs to local government? Should the processes for recouping unpaid fines be reviewed, given there is a resource impost when the fines are generated but not recovered and the gap between fines issued and fines recouped is \$21 million.

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<sup>5</sup> LGSA draft submission on IPART's review of costs of local government elections, May 2019