

19 July 2019

Dr Paul Patterson
Chair
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop NSW 1240

Dear Dr Patterson

REVIEW OF LOCAL GOVERNMENT ELECTION COSTS

Thank you for the opportunity to make a submission on IPART's draft report *Review of local government election costs*.

I acknowledge the limited time IPART has had to undertake this review. The review has also occurred during an extremely busy period for the NSW Electoral Commission [NSWEC] which has been conducting the 2019 State General election.

The draft report illustrates that conducting local government elections to meet contemporary standards of integrity, accountability, safety and fairness is a complex and resource-intensive responsibility for the NSWEC. It also provides a timely opportunity to consider the value of having an independent election manager in the NSW system of local government, with its constituent councils located in diverse metropolitan, regional, rural and remote communities.

In this context, it is worth noting that the statutory objects set out in the *Electoral Act 2017*, which establishes the NSWEC, include:

- to enable the citizens of New South Wales to participate in fair and transparent electoral processes; and
- to facilitate the fair and transparent conduct of elections in New South Wales.

Section 7(c) of the *Local Government Act 1993* provides that one of the purposes of that Act is to provide for governing bodies of councils that are democratically elected.

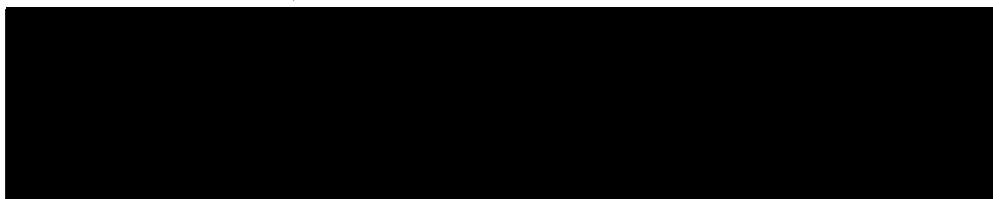
I am concerned that insufficient regard has been given by IPART to how some of the recommendations proposed in the draft report could be implemented without undermining well-established and sound electoral practices and possibly compromising the integrity of democratic processes at a local government level.



To assist IPART in finalising its report, I have attached a table that sets out my response to each of the 12 draft Recommendations and also a longer set of comments on the contents of the draft report itself. These comments address issues where I consider the draft report does not account for the likely impact of competition-driven change on councils, particularly remote, rural and regional councils, or the independent operations of the NSWEC. These comments also address suggestions or assumptions in the draft report that appear to be inconsistent with the principled framework under which local government elections are, and should continue to be, conducted.

I hope this submission is helpful in finalising your report and I thank you again for the opportunity to make a submission. If you have any queries, please do not hesitate to contact Mr Trevor Follett, Director of Finance and Chief Financial Officer on [REDACTED]

Yours sincerely



 John Schmidt
Electoral Commissioner

Response to the Independent Pricing and Regulatory Tribunal draft report

Review of local government
election costs

19 July 2019

Response to IPART’S draft report on the cost of local government elections

NSW electors are entitled to receive the same level of service and integrity at local government elections as they do at state elections

The NSW Electoral Commission (NSWEC) has reviewed IPART’s draft report titled “Review of local government election costs” issued on 25 June 2019. Comments relating to specific issues and key recommendations are provided in the attached tables. Table 1 provides specific comments on the draft report and Table 2 outlines our response to each of the 12 recommendations included in the draft report.

Table 1: NSWEC’s Response to IPART’s Draft Report

The NSW Electoral Commission provides the following comments on IPART’s draft report:

Issue	Page Reference	NSWEC Response
Purpose of the Review	P. 1	<p>The purpose of the IPART review was (in part) “...to ensure a robust methodology for determining costs...in order to minimise the financial burden on councils and ratepayers.” (Terms of Reference from Premier of NSW dated 7 February 2019).</p> <p>It is not clear that the draft report fully addresses the Terms of Reference at least for the Local Government Election in 2020 (LGE 2020), or the impact of the change in the legislative environment after 2020 that will allow prescribed councils to resolve to use full postal voting. This reform will have significant impacts on the cost of delivering local government elections.</p> <p>If the draft report recommendations were implemented, the financial burden on councils and ratepayers would be significant for LGE 2020, particularly for regional and rural councils (see Appendix B to the IPART draft report). Across the board council bills would be significantly higher under IPART’s draft recommendations than under the NSWEC’s proposal (Footnote 110, p. 51).</p> <p>Even after LGE 2020 councils will face higher bills than they would have under the NSWEC’s current methodology as IPART has shifted a greater range of costs onto councils.</p> <p>It would be useful if the final report could address whether IPART considers it is possible for the financial burden on councils and ratepayers to be minimised by any costs methodology it considers appropriate for a fully contestable market.</p>

Issue	Page Reference	NSWEC Response
Mandatory unbundling and component pricing	P. 2 and 61	<p>IPART recommends “The mandatory unbundling, component pricing and offering of the NSWEC’s individual local government election services, with the NSWEC providing binding quotes for each individual election service.” (p. 2) IPART notes that this recommendation will require legislative reform and be in place in time for the LGE in 2024.</p> <p>The NSWEC suggests that the final report addresses how this recommendation could be implemented in light of recent legislative reform that means councils can no longer run their own elections (<i>Local Government Amendment Act 2019</i>). For example, who would the NSWEC contract with to deliver its “unbundled” service/s? The impact on the integrity of the election and continued independence of the NSWEC potentially becoming a sub-contractor of a commercial services provider engaged by a council as election manager needs to be considered further.</p> <p>The NSWEC also suggests that it would be useful if the final report outlined the required legislative reforms IPART considers are required to implement to this particular recommendation so that stakeholders can carefully consider this matter. By way of an example, some NSWEC’s services, e.g. furnishing a copy of the residential roll, are required to be provided to a council’s general manager rather than an electoral services provider (Section 298 of the <i>Local Government Act 1993</i>).</p> <p>The NSWEC would need to incorporate assumptions into an ‘unbundled pricing scenario’ that would be a cost addition to the current unit pricing. Pricing is currently based on a minimum 90 per cent of councils utilising all NSWEC services. Not all services are elastic. The diminution in use of services will result in a loss of ‘economy of scale’ and thereby lead to higher per council costs.</p> <p>There would be an additional overhead incurred in council liaison, price determination, managing drafting of contracts and contract variations. This would occur within a tight timeframe, in which planning decisions may have already needed to be made. The NSWEC would also have a budget exposure if prices paid to suppliers of NSWEC are greater than provided in the quotes to councils.</p> <p>In addition, to ensure end-to-end integrity in the election process, new arrangements would need to be implemented to ensure probity and accountability at different stages in an election. Allegations of errors or impropriety concerning key election services, e.g. nominations, ballot paper production, voting, counting and results, could lead to a challenge to the validity of an election. The NSWEC would need to develop an entirely new framework for ensuring accountability for different steps in the electoral process is identified and maintained. These arrangements would come at a cost which, again, would need to be passed on. To maintain confidence in the electoral process, external regulatory oversight would also need to be increased in an electoral environment where the NSWEC’s election services are unbundled.</p>

Issue	Page Reference	NSWEC Response
		<p>The NSWEC remains concerned that, as a government agency, the regulatory and governance environment in which it operates imposes a higher cost structure on the NSWEC that is not imposed on a private provider. This has implications for the NSWEC in providing competitive component pricing and may artificially distort the market in favour of private providers and result in significant negative externalities for electors and political participants. This environment should be taken into account by IPART in its final report and be reflected in its costing methodology. The implications for electors and political participants (particularly in regional and rural areas) should be properly acknowledged, particularly as its recommendations may support private providers servicing councils in more 'profitable' areas and leave harder to service and hence more costly remote regions/councils to the NSWEC.</p>
General Manager responsibilities	P. 3	<p>IPART recommends “legislative change...to ensure that a council’s General Manager becomes responsible for producing a valid election result if and when the council ceases to engage the NSWEC for <i>all</i> election services.” (p. 3)</p> <p>This recommendation is unworkable if it means that the NSWEC would be responsible ‘for producing a valid election result’ if it provides <i>any</i> election service to an electoral services provider, no matter how minor that service may be. It would be useful if IPART could clarify if it is suggesting that, if the only election service the NSWEC provides is ‘media and advertising’, then the NSWEC will remain responsible for an election’s validity despite all other components of the election process, e.g. nominations, ballot paper production, voting, counting and results, being provided by an electoral services provider?</p> <p>This recommendation highlights the difficulty in apportioning responsibility for delivering valid elections when different components in the electoral process are ‘unbundled’ and provided by different parties. From the responsible party’s perspective, how can it be held liable for election outcomes if it does not control all key stages in the electoral process?</p>
Price regulation and independent regulatory oversight	PP. 10 and 65	<p>IPART recommends that the NSWEC’s prices are regulated for the short-term (LGE 2020) and has suggested itself as the possible regulator.</p> <p>There are significantly different and nuanced policy considerations that apply to the regulation of democratic processes, as opposed to the regulation of utilities or public transport delivered by government-owned businesses. If a pricing regime were to be introduced, the Electoral Commissioner could not be required to provide election services at a price he does not believe would support the conduct of a fair and transparent election.</p>

Issue	Page Reference	NSWEC Response
Period to engage NSWEC	P. 9 and	<p>IPART recommends “legislative change to reduce the period before an election by which a council has to resolve to engage the NSWEC from 18 months to 9 months.”</p> <p>The NSWEC believes that 9 months is too short a time frame for it to receive final advice on the size of its client base and still deliver a state-wide local government election. Our experience is that planning for such an event needs to commence at least 12 months in advance of election day.</p>
WIGM – Barrier to Entry	P. 15	<p>“City of Sydney and Penrith City Council both identified the introduction of WIGM as a barrier to entry given its complexity and significant IT requirements. However, it may not be considered cost-prohibitive by private providers. The Australian Election Company informed the JSCEM during the 2017 inquiry that...the change would be manageable. We further understand that there are parties who consider that the new voting requirements could be met by providers other than the NSWEC” (p. 15).</p> <p>The Australian Election Company provided its advice to the JSCEM in 2017. Details concerning WIGM’s operation were only made public in December 2018 following the making of the <i>Local Government (General) Amendment (Elections) Regulation 2018</i>. As part of its review, has IPART sought more recent advice from the Australian Election Company regarding its capacity to deliver a WIGM count system?</p> <p>IPART should provide clarifying information to support its statement in the draft report that ‘...there are parties who consider that the new voting requirements could be met by providers other than the NSWEC’. Who are these ‘parties’ and ‘providers’? When, and at what price, will these providers be able to make available their WIGM count systems?</p>
Joint Roll Agreement	P.13 (footnote 16) & p.32 (footnote 76)	<p>Point of clarification on the Joint Roll Agreement:</p> <p>Under the Joint Roll Arrangement, the Australian Electoral Commission (AEC) is the main provider of roll data but the NSWEC undertakes significant activities in relation to that data. The AEC provides extracts of the national roll to NSWEC on a regular basis. The NSWEC imports the roll data into its roll management system (RMS) and state-only enrolments are then included. From there, a number of the NSWEC roll systems are populated and products created, including rolls required by legislation to be given to political parties, elected representatives, the Office of the Sheriff, Revenue NSW and a number of other agencies. The roll data is also used by the NSWEC in its regulatory role for verification of political funding and compliance obligations.</p>

Issue	Page Reference	NSWEC Response
Allocation of local government services	P. 14	<p>The NSWEC does not support the view in the draft report that the majority of election services are “contestable”. While we agree that some election services could be provided by third party suppliers, overall co-ordination of each election requires significant expertise and experience and a public interest, rather than commercial, focus. There is a risk that if elections were more extensively performed by commercial suppliers, the integrity of the NSW local government system would be undermined and more elections open to costly challenge.</p> <p>The ownership and management of a local government election by a single supplier supports the success and integrity of that election. To unpack specific services and products and offer them out as an optional uptake would lead to an unacceptable risk to the management of the entire election process, and add further costs to the overall project.</p> <p>IPART makes mention of its review into the retail energy market and its similarities to local government elections market. It is not easy, however, to draw any useful analogy between utilities and elections. Retail energy services are a continuous (24/7) profit-making business. The Ordinary Local Government Elections are time limited events occurring every 4 years, which require an enormous programme of work and meticulous planning in their delivery. The NSWEC believes that the unique nature of this service is likely to be the main reason that private providers have not entered the market after many years of it being open.</p>
Private providers servicing and outcome for regional and rural councils	P. 17-18	<p>Councils in regional and rural areas (with small and geographically dispersed populations) may never be the target market of commercial providers. The high costs of administering such elections in these areas may make them “uneconomic” for profit-maximising firms. The result being that many smaller regional and rural councils may be left with few competitive options to deliver their election. In this regard, IPART argues that “If the NSWEC is left with higher-cost councils to service then it needs to be able to recover its efficient costs.” (p.18) Given the higher cost structure of delivering elections to these councils, and in the absence of any government subsidy, these councils may be subject to even greater cost increases to deliver their elections than forecast by IPART.</p>
Provision of bottom-up estimates	P. 27	<p>The report can be read as implying that the NSWEC was late in providing its ‘bottom-up’ estimates to IPART which, in turn, has created difficulties for IPART in preparing its draft report. The NSWEC’s bottom-up estimates were provided to IPART on 31 May 2019 in accordance with the timetable which had been agreed between the NSWEC and IPART earlier this year. That timetable was further confirmed in telephone discussions between the Electoral Commissioner and IPART’s former CEO. The NSWEC agrees the timeframes were very tight but all information was provided as agreed and on time.</p>

Issue	Page Reference	NSWEC Response
Comparative complexity of Local Government Elections	P. 28	<p>In coming to its conclusions regarding the treatment of a number of the NSWEC’s costs, IPART has relied on observations made by EY in its report relating to the comparative complexity of local government elections.</p> <p>Local government ordinary elections are at least as, if not more, complex than State general elections and funding (cost estimates) should reflect this fact. This complexity is largely the result of the need to conduct multiple polls on the same Election Day, including Mayoral Elections, Councillor elections and polls/referenda. In 2016, the NSWEC conducted elections on behalf of 75 NSW councils – this consisted of 144 individual elections in 63 wards and 58 undivided council areas (i.e. 114 contested councillor elections, seven uncontested councillor elections, 17 contested mayoral elections, and referenda for six councils). A comparison of the estimated complexity of the LGE 2020 to the recent SGE 2019 is set out in the diagram below:</p> <pre> graph TD subgraph "State Election 2019" S1["Contests - 1 Legislative Council - 93 Legislative Assembly"] S2["Nominations - 586 Legislative Assembly - 385 Legislative Council - 29 Groups"] S3["Registered Political Parties - 18"] end subgraph "Local Government Election 2020" L1["Contests - 128 Councils - 33 Mayoral - 262 Councillor contests"] L2["Other contests - 25 Referendum / Poll"] L3["Nominations - 3000 nomination by electors - 1500 nomination by RPP - 800 groups"] L4["Registered Political Parties - 43"] end </pre>

Issue	Page Reference	NSWEC Response
Election staffing – Pay rates & WHS (Work, Health and Safety)	P. 28	<p>Rates of pay</p> <p>On p.28 of its draft report IPART states that ‘EY found the increase in pay rates was not adequately justified. The NSWEC did not clearly demonstrate why local government election pay rates should align with those for State Elections.’</p> <p>The NSWEC provided EY with advice that the roles performed by staff and skills required are similar for each election (same functions, responsibilities, skills, capabilities, hours, level of complexity, etc.) and hence should attract a similar rate of remuneration.</p> <p>Notwithstanding this advice, EY recommended the adoption of ‘...pay rates for PP (polling place) staffing LGE 2020 that apply a 6 per cent discount on escalated SGE 2019 pay rates to reflect the lower complexity of the LGE upper (sic) ballot papers’. (p.22 – EY report). [It should be noted that there are no ‘upper house ballot papers’ at local government elections. This basic error appears repeatedly on p.22 of the EY report.]</p> <p>A 6 per cent reduction in the proposed pay rate for polling place staff would result in approximately 10,000 temporary election staff being paid below the minimum wage. IPART and EY should provide justification for making a recommendation which would lead to employees being paid below the minimum wage.</p> <p>The rates of pay for 10,000 election officials are currently paid at \$340.96 day (excl. superannuation). It is estimated that staff will work on average a 14 hour day (including 2x ½ unpaid meal breaks) with an effective pay rate of \$26.23 per hour, which includes all applicable loadings and penalty rate for overtime or weekend work. We note the national minimum wage is \$19.49 an hour plus 25% casual loading being \$24.36 hour.</p> <p>The NSWEC finds it difficult to understand how EY and IPART could put forward a proposal which, if adopted, would result in some election workers being paid below the minimum wage.</p> <p>The NSWEC notes that it is in the process of developing a remuneration determination for election staff in LGE 2020. This determination will set remuneration and conditions for our temporary election workforce and will be guided by three objectives:</p> <ul style="list-style-type: none"> • Ensuring staff are not paid less than the minimum wage. • That conditions of employment are consistent with WHS obligations. • Attract staff with required skills and capabilities for the roles. <p>This determination may lead to increased wages, and therefore increased costs, for conducting local government elections.</p>

Issue	Page Reference	NSWEC Response
		<p>Staff Turnover</p> <p>The 20 per cent rate for loss of election managers at a previous State election quoted in the EY report was not simply “turnover”, but rather, attrition. We hire and train election managers specifically for an election event - they are not part of a standing/established workforce. At this particular election, we did not have back-fill election managers who could step in to replace the temporary staff who were hired but then left in the lead up to or during the election. This meant that other staff (including head office staff) had to take on these roles. The report says we did not provide “evidence” about why this was a problem but there may be a misunderstanding about what happened in 2015. The risk of 20 per cent of our election managers resigning before election day is a risk that warrants action to mitigate it happening at future elections.</p> <p>Comparable benchmarks</p> <p>EY uses LGE pay rates in Victoria as a benchmark, noting that in some cases the rates for its LGE are marginally lower than its SGE rates. In Victoria, however, most council elections are conducted entirely by postal voting and hence require no polling places and the role of the Election Manager (RO) is quantitatively different to that performed by an Election Manager in NSW. It is not necessarily the case that this is a more useful benchmark than for other jurisdictions. In NSW, universal postal voting will not be an option until after the 2020 local government elections. Looking at the pay rates listed for the VEC in the appendices to the draft report does not support IPART’s concern that the NSWEC is paying too much.</p> <p>WHS</p> <p>It is not clear how the Work Health and Safety claim statistics cited in the EY report demonstrate the effectiveness or ineffectiveness of changes to table loadings. While claims statistics may be a useful analytical tool, managing table loadings to achieve the outcomes required under the new Fatigue Management Guidelines is an ongoing risk management exercise. The absence of any examples of a risk attributable to fatigue materialising in the past or SGE19 is not determinative of the value of new table loadings. The risks associated with fatigue are well-understood to be potentially catastrophic, even if such risks are not directly connected to election day tasks but rather to the hours worked and the journey home afterwards.</p>

Issue	Page Reference	NSWEC Response
		<p>As an employer, the NSWEC must take steps to manage that risk and the Fatigue Management Guidelines (provided to IPART on 15 May 2019) are a new part of its Risk Management Strategy. If the proposed table loadings changes have been identified as one of the few effective avenues for reducing fatigue-related risk while ensuring that the same amount of work can be done in LGE 2020, then the absence of fatigue-related past claims should not mean changes are characterised as optional for LGE 2020 costings. It should be noted that the NSWEC, as a public service agency, must act as a model litigant in any court proceedings that might flow from any claim.</p> <p>IPART's final report should provide clear justification for recommending the adoption of work practices that the NSWEC, as the employer, has determined are not appropriate from a WHS perspective.</p>
Counting Hubs and Complexity of batching and counting	P. 29	<p>The move to adopt counting hubs was driven by the difficulty of employing Returning Officers capable of understanding the requirements and intricacies of batching and data entry of all councillor ballot papers into the proportional representation computer count system. This specialist skill required the NSWEC to send selected head office staff to local returning offices to support the process. As the NSWEC has a very small team of permanent subject matter experts (SMEs), difficulties and bottlenecks in the efficient processing of the ballot papers were hard to avoid.</p> <p>By centralising the batching and data entry within regional 'hubs', the NSWEC was able to contain the processes within a small number of centres which could be managed by the available NSWEC SMEs. The additional benefits gained from employing counting hubs was that processes were consistently applied, materials handling and workflow processes were greatly improved, and election results were on the whole delivered quicker than previously.</p>
Venue procurement	P. 29	<p>'Some stakeholders indicated the NSWEC's minimum space requirements for pre-polling venues and RO offices limited the venues available to be used for these purposes, which impacted on its venue procurement costs.'</p> <p>Our first preference in any local government election is to have a suitable returning office provided by the relevant council. However, for integrity and practical reasons, we do have time, space, security, WHS, access, location, facility, and storage and accessibility criteria for these offices. In Ordinary Local Government Elections, the significant length of time required for a returning office (2-3 months) often prevents councils from being able to make available a suitable venue. However, when one is proposed, even when it does not meet all of the required criteria, the NSWEC will inspect the property and where possible 'make it work' in order to save councils money. Where a proposed venue is, for example, substantially smaller than the required space, the NSWEC cannot accept it if it does not provide a safe working environment for staff and voters.</p>

Issue	Page Reference	NSWEC Response
		<p>The main pre-poll venue is the returning office, so not only does the returning office have to operate as a warehouse, secure store and election head office, it also functions as a shop-front and polling place. Pre-poll venues also have specific requirements, so to provide an effective service, the NSWEC must ensure that pre-poll venues are fit for purpose.</p> <p>The NSWEC has previously provided IPART with the criteria applied when undertaking venue procurement. We would welcome IPART's views regarding how the minimum suitable space and other accommodation requirements for a polling place should be determined.</p> <p>Where practical, venues (both pre-poll and/or polling places) may be utilised as a multi-venue – shared between councils due to its proximity to neighbouring councils. The positive effect of reducing venue hire costs would be apportioned to each council.</p>
Logistics	PP. 29-20	<p>The NSWEC no longer leases a warehouse and office facility at Riverwood. This facility previously delivered multiple service streams for the NSWEC's activities. The logistics component of this facility is now outsourced to a third-party provider. Costs of this outsourcing arrangement for council election related activities are met by councils. The count, results and administration space previously delivered through Riverwood are now provided in rented space for the period of the council elections. These direct costs are passed on to councils.</p>

Issue	Page Reference	NSWEC Response
Call Centres	P. 30	<p>The NSWEC provides the following advice:</p> <p>The number of inbound calls received by the Elector Enquiry Centre (EEC) is comparable for both State General and Local Government Ordinary elections. A higher volume of calls during local government elections is not uncommon due to the complexity of local government elections together with the lack of media coverage and a lower level of understanding that voting in council elections is compulsory. During the 2015 and 2019 state general elections, 84,600 and 86,000 enquiry calls were received respectively, compared to 109,800 enquiry calls received during the 2016/2017 local government elections.</p> <p>The higher call volumes for LGE 2016/17 may have been in response to the split election. However, we would expect that call volumes would be the same at LGE 2020 to those experienced at the recent 2019 SGE.</p> <p>EY states on p.30 that one of the primary drivers for NSWEC's predicted increases in costs for LGE 2020 was 'The NSWEC establishing and operating its own Elector Enquiry Centre (EEC) to replace the previous call centre at Riverwood upon expiry of the lease in December 2017.' The NSWEC notes that the lease costs and ICT infrastructure of the Riverwood site used for the local government elections in 2016/17 was substantially cross-subsidised from State General election funding. The 2019 SGE was the first time a standalone call centre was required to be established specifically for an election event. With the Riverwood site no longer being available, the full costs of establishing the election call centre (not just additional staff) will need to be borne by the LGE 2020 budget.</p>
Additional efficiency savings	P. 31	<p>The draft report states that 'While it did not specifically review the efficiency of the NSWEC's other cost items, EY considered it would be reasonable to expect some efficiency improvements in these costs over time. EY noted that the NSW Government introduced an annual efficiency dividend for all government agencies in the 2018-19 Budget. On this basis, it recommended a reduction of 0.5% per annum from LGE 2016/17 costs for the NSWEC's other cost items. This results in a 2.4% reduction in these other cost items when compared to the NSWEC's proposal.'</p> <p>This recommendation represents a misunderstanding of the operation of government efficiency dividends in relation to election expenditure. This expenditure is classified by NSW Treasury as a 'Protected item' and is not subject to efficiency dividends. Efficiency Dividends are not applied to electoral expenditure as Treasury recognises that most of such expenditure is outside the control of the NSWEC.</p> <p>The blanket application of an efficiency dividend to the NSWEC's election service-delivery costs is impractical and should not form part of IPART's final report. Alternatively, the final report should provide advice as to how IPART believes the NSWEC can realise efficiency savings on expenditure that is beyond our control.</p>

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"Efficient costs"	P. 24, Table 3.2	<p>There are a number of costs which IPART have listed in this table which are not expressly considered in the draft report, but for which IPART has nevertheless proposed a reduction greater than their 2.4% efficiency dividend. For example a reduction for Logistics of 41.7%, Call centres of 64%, Postal voting 12%. We have explained the removal of our 'free premises' (i.e. Riverwood) for the operations of logistics and call centres. The postage rates charged by Australia Post are outside our control. We have difficulty understanding how these services have been priced by IPART, to deliver the cost savings proposed.</p>																			
		<table border="1"> <thead> <tr> <th data-bbox="631 528 900 746">Election Service</th> <th data-bbox="900 528 1120 746">IPART's proposed reduction from NSWEC's costing (\$'000)</th> <th data-bbox="1120 528 1292 746">Difference (%)</th> <th data-bbox="1292 528 2045 746">NSWEC Response</th> </tr> </thead> <tbody> <tr> <td data-bbox="631 746 900 916">Enrolment</td> <td data-bbox="900 746 1120 916">-25</td> <td data-bbox="1120 746 1292 916">-2.6%</td> <td data-bbox="1292 746 2045 916">Proposed cut based on the application of an arbitrary efficiency dividend. Unclear how this is to be achieved and which services/products IPART is suggesting we cut. It is noted that this is a non-contestable service.</td> </tr> <tr> <td data-bbox="631 916 900 1118">Council Liaison</td> <td data-bbox="900 916 1120 1118">-39</td> <td data-bbox="1120 916 1292 1118">-3.5%</td> <td data-bbox="1292 916 2045 1118">Service not expressly considered in IPART's draft report. Proposed cut based on the application of EY's recommendation that a staff member engage to carry out this service be paid an arbitrary 5-10% less than forecast by the NSWEC as the market rate (see p.36 – EY report).</td> </tr> <tr> <td data-bbox="631 1118 900 1385">Data Management</td> <td data-bbox="900 1118 1120 1385">-36</td> <td data-bbox="1120 1118 1292 1385">-11.6%</td> <td data-bbox="1292 1118 2045 1385">Service not expressly considered in IPART's draft report. Proposed cut based on the application of an arbitrary 5-10% reduction in remuneration as recommended by EY (see p.36 – EY report.). The NSWEC would dispute EY's market comparator and instead has used the market rate it currently pays such analysts to inform its cost estimate for LGE 2020.</td> </tr> </tbody> </table>				Election Service	IPART's proposed reduction from NSWEC's costing (\$'000)	Difference (%)	NSWEC Response	Enrolment	-25	-2.6%	Proposed cut based on the application of an arbitrary efficiency dividend. Unclear how this is to be achieved and which services/products IPART is suggesting we cut. It is noted that this is a non-contestable service.	Council Liaison	-39	-3.5%	Service not expressly considered in IPART's draft report. Proposed cut based on the application of EY's recommendation that a staff member engage to carry out this service be paid an arbitrary 5-10% less than forecast by the NSWEC as the market rate (see p.36 – EY report).	Data Management	-36	-11.6%	Service not expressly considered in IPART's draft report. Proposed cut based on the application of an arbitrary 5-10% reduction in remuneration as recommended by EY (see p.36 – EY report.). The NSWEC would dispute EY's market comparator and instead has used the market rate it currently pays such analysts to inform its cost estimate for LGE 2020.
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		Election Service	IPART's proposed reduction from NSWEC's costing (\$'000)	Difference (%)	NSWEC Response
		Election staffing	-4,648	-19.9%	Implications of proposed cut not canvassed by IPART. In short, if implemented this cut would have significant WHS implications and lower wages to election day staff below the minimum rate of pay. These, and other implications, are NOT acceptable to the NSWEC.
		Financial services	-25	-2.5%	Service not expressly considered in the draft report. Proposed cut based on the application of an arbitrary efficiency dividend.
		Venue procurement	-513	-11.9%	Implications of proposed cut not canvassed by IPART. In short, if implemented this cut would have significant impact in securing the most appropriate venues available and ensuring the necessary WHS requirements are meet from both an employee and elector perspective. These, and other implications, are NOT acceptable to the NSWEC.

Issue	Page Reference	NSWEC Response			
		Election Service	IPART's proposed reduction from NSWEC's costing (\$'000)	Difference (%)	NSWEC Response
		Counting and results	-47	-2.7%	<p>Majority of proposed reduction based on the application of an arbitrary efficiency dividend as recommended by EY. No evidence to support the application of an efficiency dividend to this critical service and the consequences.</p> <p>What IPART has proposed is a different allocation model of costs related to counting and results. That is, allocating costs to individual councils based on the council ballots counted at the venue. This would pose significant administrative complexity for the NSWEC in forecasting same in any estimate to council.</p>
		Election procedures documentation	-21	-2.4%	<p>Majority of proposed reduction based on the application of an arbitrary efficiency dividend as recommended by EY. No evidence to support the application of an efficiency dividend to this critical service and the consequences.</p>
		Logistics	-1,660	-41.7%	<p>Implications of proposed cut not canvassed by IPART. In short, if implemented this cut would have significant impact on a wide range of processes, services and products that go together in ensuring the safety, security, conduct and integrity of running a successful election. These, and other implications, are NOT acceptable to the NSWEC.</p>

Issue	Page Reference	NSWEC Response			
		Election Service	IPART's proposed reduction from NSWEC's costing (\$'000)	Difference (%)	NSWEC Response
		Media and advertising	-55	-2.4%	<p>Service not expressly considered in IPART's draft report. However, we note that in the EY report no concerns were raised in respect of this cost.</p> <p>Proposed cut based on the application of an arbitrary efficiency dividend.</p>
		IT and support	-19	-2.4%	<p>Service not expressly considered in IPART's draft report. Proposed cut based on the application of an arbitrary efficiency dividend.</p>

Issue	Page Reference	NSWEC Response			
		Election Service	IPART's proposed reduction from NSWEC's costing (\$'000)	Difference (%)	NSWEC Response
		Call Centres	-1,197	-64.0%	<p>The budget presented to IPART was based on the actual costs of providing Call Centre services during the 2019 State General Election. Previously, the NSWEC had its Riverwood warehouse that served as the call centre. The NSWEC surrendered the lease on this premises before the 2019 State General Election and a new venue had to be sourced and equipped for that election.</p> <p>If the budget is reduced for call centres, as recommended by IPART, the NSWEC would have no venue (or equipment and telephony services) to operate a call centre during the local government election in 2020. This would have significant impact on voter turnout and may undermine public confidence in the election itself.</p>
		Ballot paper	-44	-2.8%	<p>Service not expressly considered in IPART's draft report. Proposed cut based on the application of an arbitrary efficiency dividend.</p>
		Nominations	-10	-2.4%	<p>Service not expressly considered in IPART's draft report. Proposed cut based on the application of an arbitrary efficiency dividend.</p>

Issue	Page Reference	NSWEC Response			
		Election Service	IPART's proposed reduction from NSWEC's costing (\$'000)	Difference (%)	NSWEC Response
		Event operations management	-7	-2.4%	Service not expressly considered in IPART's draft report. Proposed cut based on the application of an arbitrary efficiency dividend.
		IT business systems	-148	-7.2%	<p>The EY report categorises these costs simply as a "significant investment in IT". These costs are not just an "investment" – they are essential changes to the configuration and maintenance of complex computer systems required to provide election services to five million voters across 128 councils in accordance with legislative requirements. These systems are integral to the delivery of the election and must be maintained and supported to ensure that the election is securely and successfully delivered. Reducing the support for these systems will put the successful delivery of the election at risk.</p> <p>There is no justification for this proposed arbitrary cost reduction.</p>
		Head Office (HO) and Riverwood Warehouse (RW) infrastructure	-245	-33.4%	This service has not been expressly considered in IPART's draft report. No justification or explanation of how a 33.4% reduction in costs would be achieved has been provided. The Riverwood warehouse is no longer available.

Issue	Page Reference	NSWEC Response			
		Election Service	IPART's proposed reduction from NSWEC's costing (\$'000)	Difference (%)	NSWEC Response
		Sydney Town Hall	-11	-2.4%	This reduction reflects a different way to allocate costs – to councils direct via a usage charge per ballot paper. In our response we have detailed the administrative difficulties in implementing this recommendation.
		Overtime	-92	-9.0%	Service not expressly considered in IPART's draft report. Proposed cut based on the application of an arbitrary efficiency dividend.
		Funding disclosure	-8	-6.3%	Service not expressly considered in IPART's draft report. Proposed cut based on the application of an arbitrary efficiency dividend.
		Postal voting	-143	-11.7%	Service not considered in depth in either the EY or IPART reports. Further, it is unclear how the reduction was calculated by IPART. IPART states (p. 6) that "postal voting costs (the costs of sending out applications and processing them) should be allocated by the number of postal ballots for each client council." This is a different allocation model rather than a saving per se.

Issue	Page Reference	NSWEC Response			
		Election Service	IPART's proposed reduction from NSWEC's costing (\$'000)	Difference (%)	NSWEC Response
		Project management office	-55	-2.4%	<p>Proposed cut based on the application of an arbitrary efficiency dividend.</p> <p>However, we note that the EY report states that the PMO costs were "efficient". IPART are supportive of EY's assessment in this regard.</p>
		<p>IPART (and EY) have used the NSWEC's 'top-down' estimates to determine "efficient costs" for LGE 2020. These estimates neither reflect the true costs of the NSWEC to deliver LGE 2020 nor our existing methodology for determining the amount to charge councils who use the NSWEC to conduct their elections. The top-down figures are a high-level estimates only and reflect only basic cost increases such as CPI and roll growth. Bottom-up estimates, which are derived by defining the tasks/services required to administer council elections and state-wide expenses were provided to IPART on 31 May 2019. These figures provide greater granularity of our costs to deliver LGE 2020 and should be used by IPART in its final report.</p>			
NSWEC's Efficiency	PP. 31, 32 & 33	<p>IPART's draft report contains a number of observations concerning the 'NSWEC's efficiency' - 'We consider EY has raised systemic concerns with the NSWEC's efficiency, and there may be scope for further cost savings.' – 'In particular, we will consider whether the systemic concerns with the NSWEC's efficiency in relation to its operating expenditure also apply to its capital program.'</p> <p>It is hard to understand how IPART could conclude that the EY report has identified 'systemic concerns with the NSWEC's efficiency'. The thrust of most of EY's key considerations was that the NSWEC had not provided 'adequate justification' (which NSWEC would dispute) regarding proposed costs. This is very different to a finding relating to 'efficiency'. If IPART, itself, has 'systemic concerns' with the NSWEC's efficiency it would be beneficial to explain the basis on which that view has been formed.</p>			

Issue	Page Reference	NSWEC Response
Efficiency of WIGM	P. 33	<p>The NSWEC provides the following advice:</p> <p>Evidence</p> <p>The justification for this investment is that the Government introduced legislative change in 2018 to require its use.</p> <p>Business case</p> <p>The criticisms of the Business Case for WIGM do not recognise that the changes for LGE 2020 were introduced by the Government in late 2018 and require modifications to pre-existing count software operated by NSWEC. The absence of market testing in the proposed procurement (which has been accepted by Treasury and is consistent with IT procurement guidelines) was necessitated by the requirement to have the changes to our existing systems ready and tested well before September 2020 (NB: Funding for this project only became available on 1 July 2019). The final report should acknowledge that the lack of time and impracticality of market testing in this case means that greater efficiencies cannot be explored through market testing.</p> <p>It is within NSW Government procurement guidelines for an agency to make enhancements to systems with an existing supplier rather than undertaking market assessment. The NSWEC is also concerned by the statement made by EY: "...it would not be unreasonable...to expect a more commercial approach to reduce the capital expenditure for the WIGM business case in the order of 5-10%." No justification/evidence was provided to substantiate this claim.</p> <p>On balance of risks, cost, time, and integrity, NSWEC is confident it has taken a prudent position in relation to the procurement.</p> <p>It is also not accurate to characterise the business case as simply limited to WIGM. It will also deliver and implement countback in time for the LGE 2020, and provide for universal postal voting (UPV) for any relevant election thereafter. These are complex system changes with significant technical risks and compliance requirements. The NSWEC will also be expected to develop guidelines and support the Office of Local Government to engage with its stakeholders.</p> <p>The NSWEC making the WIGM, countback, and UPV systems available by September 2020 is not optional for the conduct of local government elections in NSW.</p>

Issue	Page Reference	NSWEC Response
Roll Management System (RMS)	P. 33	<p>Point of clarification regarding the roll management system in the RAB</p> <p>The statement in IPART’s draft report that “we did not include the roll management system in the RAB as this asset is not currently used” is incorrect. The roll management system (RMS) is used every day within the NSWEC.</p> <p>The RMS is essential to the NSWEC’s capacity to deliver its legislative responsibilities, in partnership with the AEC. The RMS holds current and historic personal information about electors, including address data and transactional data that has been used to update the person’s record from one version to another. The AEC shares data with the NSWEC at frequent intervals under a longstanding interjurisdictional arrangement. The AEC data is used to update data held in the RMS so that it is capable of producing State and local government rolls on request, whether for an election event, or as required under legislation to members, parties, candidates for an election, agencies such as ICAC and the NSW Crime Commission or in response to public interest requests (such as Breast Screen) for medical research.</p> <p>Additional roll products produced from RMS include the preliminary, authorised and supplementary rolls created for election events, deleted enrolments, pending objections and elector extract flagging ‘new’ electors.</p>
Costs allocated to councils, including impactor pays principle	P. 38	<p>IPART is proposing a fundamental change in the way costs are allocated between councils and the State Government to pay for local government elections in the future. This model will see a greater quantum of costs allocated to councils using the impactor-pays principle.</p> <p>NSWEC provides the following advice:</p> <p>Impactor pays principle</p> <p>NSWEC acknowledges that the standard approach for IPART, particularly in monopoly or near monopoly markets, is to allocate costs according to the impactor pays principle – that is, those that create the need for the cost to be incurred should pay the cost. In the case of local government elections, local councils create the need (to hold an election) and thus they would absorb most (if not all) of the costs.</p> <p>Although this is ultimately a policy matter for the NSW Government, in consultation with the local government sector, the NSWEC has reservations that the “impactor pays principle” is an efficient, effective or equitable means by which to allocate costs in local government elections. Its reservations are as follows:</p>

Issue	Page Reference	NSWEC Response
		<p>The capacity of many local councils to pay full cost recovery, particularly in rural and regional areas, appears to be questionable. Some level of NSW Government funding is likely to be required to assist these councils to conduct elections into the future. These councils may already present as uneconomic for private (for profit) election businesses and this situation would be exacerbated by the application of the impactor pays principle.</p> <p>Election services result in considerable social good, and failure meets with extreme negative externalities. Imposing a model from another industry on election services may undermine the sector and lead to many local councils simply having no viable option to conduct their election – neither the NSWEC nor a private provider would be able to service these councils in an affordable way. Given the social good elements of election services, there is an argument that the NSW Government should continue to fund at least part of the cost of conducting local government elections. Again, the NSWEC is proposing that the NSW Government provide funds to meet its core costs only.</p> <p>It is a matter of debate who the impactor is in this instance – the State (which has the legislative power to require a local government election, as seen in 2016/17) or local councils. This point was raised by councils themselves at the Public Forum on 2 July 2019. These matters should be better articulated in IPART’s final report, with evidence to substantiate the position that councils are the sole impactors.</p> <p>It is a matter for councils, the NSW Government and the NSW Parliament to determine the source or sources of funding for local government including its elections. It may be fair and reasonable to expect local councils to pay at least some of the direct costs that they incur in running an election. However, any changes recommended by IPART need to be mindful of the existing funding model and the pressures on many local councils, particularly in rural and regional areas. Opening up the market to more competitors is not something that has worked to manage costs to date and a cost-benefit analysis of the existing arrangement does not appear to have been undertaken.</p> <p>Complexity and an administrative burden</p> <p>The model proposed by IPART would introduce greater administrative complexity for the NSWEC in allocating indirect costs. Under the IPART model these costs would be allocated by the number of ballots issued by each client council. This would make providing a firm quote to councils in advance of the election difficult (if not impossible) and be a considerable burden on the NSWEC to calculate post the event. The NSWEC questions the underlying economic rationale for this proposal.</p>
Returning Officer costs	P. 44	<p>At this stage, the NSWEC has indicated it does not have data available to breakdown these Returning Officer costs so they can be allocated to individual councils.’ – This information does not exist until councils have advised they wish to share offices. At this stage in the cycle, we do not know which councils are engaging the NSWEC let alone those that may wish to share RO offices.</p>

Issue	Page Reference	NSWEC Response
Cross subsidies	P. 48	<p>‘However, the NSWEC was unable to provide more detailed information on the specific cost items causing the cross-subsidies.’</p> <p>The NSWEC has provided EY and IPART with detailed information on the issue of cross-subsidisation. It is unclear what the nature of EY’s or IPART’s outstanding issues are with this matter. The NSWEC has also provided IPART with a report prepared by independent consultants PwC that also addresses this issue and how we suggest the issue could be dealt with to minimise an unfair impact for regional and rural councils. These suggestions have not been addressed by IPART in its draft report.</p>
Flexibility in service levels	P. 48	<p>‘Councils that have used the Australian Election Company found the company to be more flexible about service levels than the NSWEC, and willing to share the responsibility for local government elections with councils.’ – p.49 – ‘This contrasts with the NSWEC’s one size fits all approach to conducting elections, which has not generally taken into account council characteristics.’</p> <p>At the IPART public forum, two councils raised the flexibility offered by the third party provider around the number of polling places, their locations and the number of staff employed at these venues.</p> <p>The NSWEC appreciates that some councils may value controlling these aspects of an election and that this flexibility may have been appropriate in the circumstances. Being a NSW public sector agency, however, the NSWEC must select polling places based on public interest factors, not only the client preference. For example, the NSWEC is cautious to avoid any perceived risk that the selection and number of polling places benefits some candidates over others. When a client council can provide sound rationale for the change or abolishment of a particular polling place, the NSWEC will give that serious consideration. In the absence of such a rationale, the NSWEC believes it is prudent to mitigate the risk by reserving the right to make the final decision on the number and location of polling places.</p> <p>The number of staff employed by the NSWEC at a particular venue is also based on a number of criteria and driven by the number of ballot papers projected to be issued at that venue. Given the need to adhere to WHS requirements at all council elections, it would be useful if IPART’s final report could consider the impact, if any, of the recent legislative changes that remove a General Manager’s responsibility for running elections on the capacity of councils to negotiate staffing and related service levels with a private provider.</p>

Issue	Page Reference	NSWEC Response
Electronic and Online voting	P. 58	<p>‘Competing service providers will respond to changes in consumer preferences and drive innovations that lead to more choice and better value for councils and their customers. In particular, developments in (or changes to) the field of elections technology can be leveraged to improve the elector experience. For example, in the future councils may opt to conduct elections via a Universal Postal Vote (UPV), employ electronic voting (as opposed to using a paper ballot) or may wish to pursue online voting.’</p> <p>The presence of competing service providers is not relevant to the availability of electronic or online voting. These are matters for the NSW Government and Parliament. If use of these voting channels was legislated the NSWEC would provide them.</p>
Cost certainty for councils	P. 58	<p>‘There is no cost certainty for councils that engage the NSWEC, with subsequent risk to council budgets.’</p> <p>Invoices issued to councils at a price above the estimate issued to councils are rare. The NSWEC has delivered the conduct of the elections for less than the total budget for all major election events since 2012.</p>

Issue	Page Reference	NSWEC Response
Pricing and other regulatory oversight	P. 65	<p>The NSWEC is not subject to the direction of Ministers in relation to the exercise of its statutory functions. This independence from the Executive Government is core to its role and the role of electoral commissions in other Australian jurisdictions. As a consequence, electoral, audit and corruption commissions are generally subject to special oversight arrangements by parliamentary committees.</p> <p>In addition to conducting elections, the NSWEC is also the regulator of all political participants in the electoral process, including parties and candidates.</p> <p>It is difficult to see, therefore, how the integrity of the NSWEC could be maintained if its election-related services were subject to oversight by an agency that is itself subject to Ministerial direction and control. Under the current arrangements, OLG has an important role to play but only in relation to ensuring appropriate standards are met by councils that choose not to engage the NSWEC.</p> <p>Within the relevant statutory framework, the NSWEC should be responsible for establishing appropriate standards of service delivery for all elections to public office in NSW.</p> <p>Price oversight by IPART should also not be pursued without in depth consideration of how to avoid price controls compromising the integrity of the election and the integrity of the NSWEC across all of its functions. Unlike some of the services currently subject to IPART price oversight, or private sector election providers, the NSWEC does not sell its local government election services for profit. Indeed, local government elections have been cross-subsidised to an extent by the funding NSWEC has received for State elections for many years. If IPART was considered for any role in regulating prices charged by the NSWEC, careful thought would need to be given to the integrity implications for the system of local government, as well as for its relationship to the operation of private market participants.</p>

Issue	Page Reference	NSWEC Response
Regulatory oversight of elections	P. 68	<p>‘However, there may also be a third option – third-party, independent oversight of an election. Under this approach an independent third-party (e.g., a private provider of election services, LGNSW, a representative from a joint organisation) would be responsible for oversight of the election and delivering a valid election result. The independent third-party would need to hold the “appropriate qualifications” and provide the appropriate standard of oversight. We are interested in stakeholder views on this approach and whether or not it is a viable option for the future.’</p> <p>It is difficult to see how it could be appropriate for a non-government body – such as one that represents the interests of elected councillors – or a joint organisation (which is a collaboration between councils) to have regulatory oversight of elections. These entities are not “independent” and to choose them would seem to embed conflicts of interest in the oversight model.</p> <p>As noted above, OLG is the agency with existing regulatory responsibilities in relation to local government. It is important to consider, however, whether it would be appropriate that OLG assume a greater role in ensuring that councils that choose not to engage the NSWEC nonetheless meet appropriate election standards.</p> <p>The NSWEC notes the recent change that has led to the NSW Audit Office assuming responsibility for all council audits may be useful to consider. The change illustrates that special considerations may apply to accountability and integrity in the system of local government and how it may not be appropriate to treat councils as mere purchasers of services in a market in relation to core accountability requirements.</p>
Private provider costs		<p>We would highlight that, while the focus is on the NSWEC as the dominant provider in the market, it would be helpful to critically analyse the cost structures of any private provider(s) and local councils that conduct their own elections. The NSWEC operates in a highly transparent manner with considerable oversight of its costs and finances relating to the conduct of local government elections. Given that taxpayers’ and ratepayers’ funds are expended, it is only reasonable that all providers make available full and transparent data to IPART to inform its review and recommendations.</p> <p>If IPART has obtained such information it should, subject to any commercial sensitivity, include details in its final report.</p>

Issue	Page Reference	NSWEC Response
Errors		<p>There are a few basic errors in the draft report, including:</p> <ol style="list-style-type: none"> 1. Local government boundaries costs (p. 39) are not incurred in the delivery of a local government election. Further to this on page 46, IPART suggest Local government boundary costs ... should be allocated evenly between all client councils. 2. Executive salaries are already included in the Election Management Fee (p. 43). It is the Executive Office costs that are excluded and not the Executive staff as a whole. The Executive office includes the cost of the three Members of the NSW Electoral Commission when they exercise responsibilities in relation to the NSWEC's public funding and enforcement functions. 3. A better cost allocation would be a per-ballot basis (p. 43). Does IPART propose a 'Yes/No' poll to be charged the same as a complex optional preference ballot paper? 4. No practical way to recover the cost of the service from non-client councils – NSWEC could invoice all councils (including non-client) for costs incurred on their behalf – (p. 44) Non-client councils are not under contract to the NSWEC and therefore there is no contract in existence pursuant to which charges could be levied. This would require legislative changes to be implemented.

Table 2: NSWEC’s Response to IPART’s Draft Recommendations

IPART made 12 recommendations in its draft report titled “Review of local government election costs” dated 25 June 2019. These recommendations, and the NSWEC’s response, are provided in the table below.

No.	Recommendation	NSWEC’s response
1	The NSWEC’s notional revenue requirement for the 2020 local government elections should be set at \$53.91 million.	<p>Not supported.</p> <p>The NSWEC costs are reflective of its cost structure. Unlike private providers, the NSWEC does not seek to maximise its profit from the administration and delivery of a local government election. Instead the sole focus of the NSWEC is to ensure the delivery of fair and transparent local government elections. To set an arbitrary revenue figure, and one which we have demonstrated is not supported by evidence, is neither efficient nor in the best interests of councils and ratepayers.</p>
2	The NSWEC’s efficient level of operating expenditure for the 2020 local government elections should be set at \$49.9 million.	<p>Not supported.</p> <p>The NSWEC is concerned that IPART has relied principally on the work of EY to set the “efficient level of operating expenditure” for the 2020 local government elections. The NSWEC has demonstrated that the EY analysis does not reflect how elections are and should be delivered in NSW and the environment in which the NSWEC operates. One of our primary criticisms of the EY report (and hence IPART’s draft findings) is that it arbitrarily (and without evidence) reduces the pay rate to election day staff by more than \$4m across the State. This reveals a misunderstanding of how the NSWEC must staff elections, and the drivers of pay rates, including WHS.</p> <p>Most concerning is that, if the NSWEC were to follow EY’s (and IPART’s) recommendation and reduce remuneration to election day staff, we would pay some election staff below the minimum wage. The Electoral Commissioner does not understand how he could follow a recommendation to pay election staff below the minimum wage.</p> <p>Nor does the Commissioner understand how it could be recommended that the NSWEC adopt work practices which it, as an employer, has determined are not appropriate from a WHS perspective.</p>

No.	Recommendation	NSWEC's response
3	Set an allowance for a return on assets for the 2020 local government elections at \$0.43 million.	<p>Agreed in principle.</p> <p>The NSWEC supports the principle to recoup a return on assets.</p> <p>The allowance for a return on assets should be a matter for NSW Treasury and administered through the normal budget process. Oversight could then be provided by the NSW Parliament (JSCEM) in reviewing the conduct and administration of the local government election as is its remit.</p>
4	<p>Adopt a real post-tax WACC of 3.2% for the purposes of calculating the allowance for a return on assets, which included:</p> <p>A gearing ratio of 45% and an equity beta of 0.45</p> <p>Market observations (cost of debt and market risk premium), based on the February 2019 bi-annual market update.</p>	<p>Agreed in principle.</p> <p>See response to Recommendation No. 3.</p>
5	Calculate regulatory depreciation (or return of assets) using a straight line depreciation method for each group of assets.	<p>Agreed in principle.</p> <p>See response to Recommendation No. 3.</p>
6	Set an allowance for regulatory depreciation for the 2020 local government elections at \$2.76 million.	<p>Agreed in principle.</p> <p>See response to Recommendation No. 3.</p>
7	Set a tax allowance for the 2020 local government elections at \$0.18 million	<p>Agree in principle.</p> <p>The NSWEC understands the argument and are not adverse to the concept of a tax allowance.</p>
8	Set an allowance for a return on working capital for the 2020 local government elections at \$0.63 million.	<p>Agreed in principle.</p> <p>See response to Recommendation No. 3.</p>

No.	Recommendation	NSWEC's response
9	<p>NSWEC's efficient costs of managing local government elections should be allocated using the impactor-pays funding hierarchy. That is, where possible, costs should be allocated to the parties that create the need for those costs. Where it is impractical to allocate costs in this way, they should be funded by the NSW Government (i.e., taxpayers).</p>	<p>It is a matter for the NSW Government whether it considers the "impactor pays principle" is an efficient, effective or equitable means by which to allocate costs in local government elections. The NSWEC considers that some of the relevant considerations would be as follows:</p> <ul style="list-style-type: none"> • The capacity of many local councils to pay full cost recovery, particularly in rural and regional areas, is questionable. • Election services result in considerable social good, and failure meets with extreme negative externalities. By simply imposing a model from another industry on election services may undermine the marketplace and lead to many local councils simply having no viable option to conduct their election. • It is unclear who the impactor is and this point was raised by Councils themselves at the Public Forum on 2 July 2019. It would be useful if IPART could discuss this matter in greater detail in its final report and provide further evidence to substantiate any claim that local councils are the sole impactors. <p>The NSWEC notes it has presented to NSW Government and IPART a proposal for funding local government election costs. We believe that this model is an efficient, equitable and transparent model to fund LGEs into the future.</p>

No.	Recommendation	NSWEC's response
10	<p>Applying the impactor-pays funding hierarchy means the NSWEC should allocate to:</p> <p>Client councils (i.e., those councils which have engaged the NSWEC to manage their elections), the efficient cost of services it provides exclusively to those councils.</p> <p>Client and non-client councils, the efficient cost of enrolment services it provides to both types of council.</p> <p>NSW Government, the efficient cost of services it provides to both client and non-client councils, but it is unable to recover from non-client councils (i.e., maintaining the electoral roll, state-wide advertising, community education materials and funding disclosure).</p>	See response to Recommendation No. 9.

No.	Recommendation	NSWEC's response
11	<p>The indirect costs the NSWEC allocates to client councils (and, in relation to enrolment services, client and non-client councils) should be shared amongst these councils on a per-electoral basis (i.e., the amount a council pays depends on the number of electors in its area), with the following exceptions:</p> <p>Shared Returning Officer costs should be allocated by the number of electors for each client council in the Shared Returning Officer grouping.</p> <p>Sydney Town Hall costs should be allocated by the number of ballots for each of the client councils using the Sydney Town Hall for as a polling place (both pre-polling and on election day).</p> <p>Counting and results costs that are venue-specific (e.g., venue procurement costs and labour costs for a counting hub) should be allocated by the number of ballots for each client council in the venue.</p> <p>Other counting and results costs (e.g., project management costs) should be allocated by the number of ballots for each client council.</p> <p>Local government boundaries costs (part of enrolment services) should be allocated evenly amongst all councils (i.e., allocated by the number of client and non-client councils, rather than the number of electors within each of those councils).</p> <p>Postal voting costs should be allocated by the number of ballots issued by each client council.</p>	<p>Not supported.</p> <p>The NSWEC has proposed (and this was outlined in our submission dated 10 May 2019) that the State Government fund many of the indirect costs associated with the local government elections. A break-up of which costs should be met by whom is provided in our earlier submission to IPART.</p> <p>The NSWEC also argues that this model would introduce new administrative complexities in costing local government elections and as such does not meet IPART's claim to introduce a more efficient method of costing local government elections. This point is explored in our earlier comments.</p>

No.	Recommendation	NSWEC's response
12	<p>That the NSW Government implement a new market model for local government election services by undertaking the following regulatory reforms:</p> <p>Legislative reform to require the mandatory unbundling, component pricing and offering of the NSWEC's individual local government election services. In advance of the council elections in 2024, the NSWEC should have unbundled its costs and services, and provide councils with binding quotes for each individual election service, so that councils can decide which election services the NSWEC will provide them with.</p> <p>The establishment of independent regulatory oversight of:</p> <p>The NSWEC's prices for unbundled local government election services, until genuine choice and competition emerges.</p> <p>The performance of all service providers, to ensure that all providers provide the mandatory, minimum levels of service (i.e., that they comply with the non-discretionary standards of conducting an election).</p> <p>Legislative change to reduce the period before an election by which a council has to resolve to engage the NSWEC from 18 months to 9 months.</p> <p>Provision of assistance to councils to further develop their election management capabilities through a training program delivered by the Office of Local Government.</p> <p>Legislative change, if required, to ensure that a council's General Manager becomes responsible for producing a valid election result if and when the council ceases to engage the NSWEC for all election services.</p>	<p>Not supported.</p> <p>The NSWEC agrees that if private providers continue to be permitted to deliver council elections, they must be subject to a robust oversight regime.</p> <p>However, we have provided detailed comments in Table 1 about the practicality and impact on integrity of these suggestions.</p>