



July - 2019

Cost of Local Government Elections

Penrith City Council Submission to IPART NSW Draft Report – Review of costs of conducting local government elections

INTRODUCTION

Penrith City Council welcomes the Independent Pricing and Regulatory Tribunal (IPART) review of the cost of local government elections. We note particularly that the review's Terms of Reference includes the following statement of purpose:

The purpose of the IPART's review is to ensure a robust methodology for determining costs is applied, in order to minimise the financial burden on councils and ratepayers and ensure local government elections are conducted efficiently and cost effectively.¹

Council officers support, in principle, the identification of efficiency costs of the New South Wales Electoral Commission (NSWEC) conducting local government elections and the unbundling of NSWEC election services from 2024. However, we are concerned that the analysis of NSWEC costs contains some assumptions that are flawed and require revision. The use of a broad definition of "impactor pays" for the allocation of election costs for the 2020 local government elections and resulting significant increase in projected costs to individual councils is not supported.

We also restate the proposition raised in our earlier submission to the IPART issues paper that consideration should be given to an appropriate mechanism whereby the revenue received by the State government from fines issued to electors who fail to vote in local government elections flow back to local government to defray the cost of future elections.

For simplicity and consistency with the IPART Public Forum Agenda (2 July 2019), this submission will respond to the following three heads of consideration:

- NSW Electoral Commission's efficient costs
- Allocating efficient costs to councils and bill impacts
- Reforms to give councils more choice and control

SUMMARY OF RECOMMENDATIONS

That the NSWEC efficient costs for conducting the 2020 local government elections be subject to further analysis and consultation particularly with regard to the assumptions made about the relative simplicity of LGE as compared to SGE before any changes proposed by IPART are implemented.

That the NSWEC proposed allocation of local government election costs between individual councils and the State government be used for LGE 2020.

That the allocation of local government election costs and the impact of unbundling contestable services on individual councils and the State government be further reviewed for LGE 2024.

That the proposed unbundling of NSWEC election services for LGE 2024 be subject to further consultation with NSWEC and private electoral service providers to ensure services are grouped where appropriate to avoid cost increases due to inefficiency.

That the revenue derived from the payment of fines for failure to vote in local government elections be applied to offset the cost of future local government elections.

¹ Terms of Reference – Cost of Conducting Local Government Elections, NSW Premier Gladys Berejiklian, February 2019

NSW ELECTORAL COMMISSION'S EFFICIENT COSTS

IPART Recommendations 1-8

IPART have identified the key drivers of the NSWEC proposed costs in conducting the 2020 local government elections (LGE 2020) as including election staffing, venue procurement, logistics, call centres, IT infrastructure and project management. IPART have recommended an \$8.8 million or 15.6% reduction of the NSWEC proposed operating expenditure to arrive at an efficient cost to conduct the 2020 local government elections. After adding a number of “building block” costs not proposed by the NSWEC, the total efficient cost for the NSWEC to conduct the 2020 local government elections recommended by IPART becomes \$53.9 million, a reduction of \$2.6 million or 4.6%. We note that this efficient cost calculation has been based on an analysis the NSWEC top-down estimate of its anticipated LGE 2020 operating costs conducted by Ernst & Young (EY) whereas the NSWEC intends to use a bottom-up methodology (not available at the time of the EY analysis) to develop the costs that will be quoted to councils.

Election staffing

Election day and Non-election day staff

The EY analysis rejects the proposition that local government election (LGE) pay rates should align with State government election (SGE) pay rates arguing that the count for upper house ballot papers is more complex. It appears the basis for this assumption is the large size of the upper house ballot paper required to accommodate the names of all groups and candidates. LGEs are in fact similar, if not more complex, than an upper house ballot in that there is provision for candidates to be grouped and for electors to choose above the line (ATL) voting. The method of voting in both the upper house and LGEs is the proportional representation system.

There are 93 electoral districts in New South Wales and 42 members in the upper house, 21 elected every four years. Therefore, there are a total of 114 seats in the NSW parliament to be filled at each quadrennial State election. In contrast, there are 128 local councils in NSW and according to the Office of Local Government, 4,157 candidates contested 1,273 positions in the 2016/2017 local government elections.²

We note that the pay rates in every category of election day official for NSW LGEs is less than all other compared jurisdictions.³ We support the alignment of SGE and LGE pay rates to ensure skilled election day and non-election day officials are retained.

Table loadings

A one size fits all approach to table loadings is not supported. However, there are some significant advantages to managing table loadings where it is warranted and either evidence or justification for it can be demonstrated. Accordingly, Council does support a targeted approach to table loadings. Council in its experience running its elections through a private electoral services provider in 2012, 2016 and 2018 has reduced table loadings where

² NSW Candidate and Councillor Diversity Report 2017, Office of Local Government, June 2019. NB: Data is from 126 councils.

³ Independent Pricing and Regulatory Tribunal Review of efficient costs of the NSW Electoral Commission's conduct of local government elections, EY Table 13, p42

appropriate and has seen a better service being provided to voters and reduced waiting times. Council has had the flexibility of working with the electoral services provider to not only use previous election data and statistics to determine the number of votes and therefore staff required, but to also use local knowledge on population movements, trends and any elements that may change election to election that will likely result in specific venues becoming more or less popular. For example, at the 2016 local council election, Council used a new facility located in a relatively new subdivision. Based on statistics from surrounding suburbs in the previous election (which showed high turnouts and wait times) and also the eagerness of the community group at the facility to promote the polling booth, along with the location near a busy new shopping centre, Council was able to reduce its table loadings to better account for the practicalities on the day.

Work Health and Safety considerations are important, as often polling place officials are performing work for 12-16 hours a day which is significantly more than a typical working day. We do not accept that local government elections are any less complex than State government elections and therefore there needs to remain the ability for Polling Place managers to maintain a high level of service to avoid delays for electors, while providing adequate rest for election officials and to be able to prepare for end of day tasks.

Venue procurement

The increased cost in venue procurement appears reasonable with respect to Department of Education facilities. However, consideration should be given to a price being set from the Department of Education that would be charged for all elections regardless of the provider, it would also seem appropriate that the Department of Education (or specific schools) to be directed to not unreasonably refuse access to a school hall. In some instances, Penrith Council has experienced resistance from specific schools in trying to utilise halls because we were a local government election and not the NSWEC. This would be a more efficient and consistent approach rather than having the NSWEC and any private providers having to enter individual agreements.

While familiarity with polling places and particularly schools is important, there also must be opportunities for other facilities to be explored for usage. While it is noted that commercial fees are likely to be higher than those provided by the Department of Education, Penrith has been successful in the past in using our own facilities and also negotiating the use of other community facilities outside of property council owns. These facilities have saved council money and also provided voting options for electors where they were most convenient. While there are some critical considerations with respect to venues particularly in regard to access and flow, Council staff considers there is value in exploring the minimum requirements particularly for pre-polling and RO offices which would open up further options.

Logistics

It is unclear from the publicly available information why EY have concluded that NSWEC have failed to justify a small increase in logistics costs for LGE 2020, however, a nominal decrease in logistic costs as recommended is supported.

Call Centres

Based on the information available the recommendations suggested for a nominal increase are supported.

However, Penrith Council has been successful in running three elections now without the establishment of a dedicated call centre. Council has been able to use its existing resources and call centre to manage and direct calls, which in the lead up to the election are largely handled by the returning officer and their office staff. While phone enquiries are likely to be the most significant it is considered that very quickly into the future that phone enquiries will largely be mitigated and decline with the effective availability of information online and the need for such large call centres should be re-evaluated.

Project Management Office (PMO)

The recommendations with respect to the Project Management Office appear to be reasonable and are supported.

Election Management Fee

The recommended inclusion of a proportion of NSWEC executive costs and joint roll agreement costs in the Election Management Fee is supported for transparency but it is noted that there are no details of head office costs such as office rent. It is believed that NSWEC location in Sydney CBD is a driver of cost that could be further examined.

Capital expenditure

The recommendations with respect to NSWEC Capital Expenditure, while heavily qualified, appear to be reasonable and are supported.

RECOMMENDATION

That the NSWEC efficient costs for conducting the 2020 local government elections be subject to further analysis and consultation particularly with regard to the assumptions made about the relative simplicity of LGEs as compared to SGEs before any changes proposed by IPART are implemented.

ALLOCATING EFFICIENCY COSTS TO COUNCILS AND BILL IMPACTS

IPART Recommendations 9-11

As indicated in the introduction, we do not support a broad interpretation of “impactor pays” for the allocation of election costs for the 2020 local government elections and resulting significant increase in projected costs to individual councils. In our view, local government exists at the behest of the State government and is a creature of State legislation. Councils are constituted, dissolved and amalgamated by proclamation of the Governor according to the provisions of Chapter 9 of the *Local Government Act 1993*.

Upon this basis we believe it is just as relevant to consider the State government as the impactor for the purposes of allocating the cost of local government elections between individual councils and the State government. Councils do have some potential impact on the cost of their elections such by choosing to have more than the minimum number of councillors, their area divided into Wards, the mayor popularly elected and the conduct of a referendum or poll. Operational decisions at each election such as the number of polling places and dual booths, local advertising over and above statutory advertising and the duration of pre-poll voting also have an impact on costs.

We support the NSWEC proposed allocation of local government election costs or otherwise the current allocation for LGE 2020 to allow time for the impact of unbundling contestable election services on election costs to become known. However, if the IPART recommendations for LGE 2020 are to be supported by the government, the cost shift from the government to councils should be considered when IPART next reviews the Local Government Cost Index (LGCI) so as to recognise the additional cost when setting the rate peg.

RECOMMENDATIONS

That the NSWEC proposed allocation of local government election costs between individual councils and the State government be used for LGE 2020.

That the allocation of local government election costs and the impact of unbundling contestable services on individual councils and the State government be further reviewed for LGE 2024.

REFORMS TO GIVE COUNCILS MORE CHOICE AND CONTROL

IPART Recommendation 12

The notion that NSWEC as a near monopoly service provider should be subject to regulatory oversight of prices and service levels until a competitive market emerges is supported. Regulatory oversight of service levels of all electoral service providers (NSWEC and private) is also supported to ensure consistency and confidence in the election process is maintained.

Mandatory unbundling and component pricing of NSWEC election services, while supported in principle, should be approached with caution to ensure higher costs do not result. We would support the grouping of NSWEC services where appropriate and suggest further consultation with NSWEC and private electoral service providers to identify which election services should be grouped for efficient delivery.

We support the reduction of the period before an election by which a council has to resolve to engage the NSWEC from 18 months to nine months. However, it should be noted that for LGE 2020, the current IPART review and its final report being due by 30 August leaves limited time for the government to consider and accept the proposed methodology, communicate this to councils and then for councils to resolve to enter into an arrangement with NSWEC before the recently amended statutory timeframe of 1 October.

The declaration of a valid election by the General Manager of a council that chooses to use a private electoral services provider does not appear to require legislative change having regard to the provisions of Clause 356 of the *Local Government (General) Regulation 2005*.

A matter raised in our response to consultation on the IPART issues paper that has not been addressed in the Draft Report is the proceeds of fine revenue as a result of electors failing to vote. We believe the potential revenue to the State government as a result of fines issued for failure to vote in local government elections is substantial. Whether the recovery of these fines is pursued is a policy matter for the State government but we would argue that it is not the amount of the fine revenue that is at issue but the principle. Fine revenue generated for

failure to vote at local government elections should be applied to offset the cost of future local government elections with particular emphasis on community awareness.

RECOMMENDATIONS

That the proposed unbundling of NSWEC election services for LGE 2024 be subject to further consultation with NSWEC and private electoral services providers to ensure services are grouped where appropriate to avoid cost increases due to inefficiency.

That the revenue derived from the payment of fines for failure to vote in local government elections be applied to offset the cost of future local government elections.

For any further information regarding this submission please do not hesitate to contact Glenn McCarthy, Governance Manager, on [REDACTED].