



Early Childhood Education and Care Review  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
Haymarket Post Shop, Sydney NSW 1240

By email - [ipart@ipart.nsw.gov.au](mailto:ipart@ipart.nsw.gov.au)

To whom it may concern,

Thank you for the opportunity to provide feedback on the terms of reference for the IPART review of NSW early childhood education and care (ECEC) affordability, accessibility and consumer choice. This review provides an important opportunity to examine concerns raised by operators within the ECEC sector.

The NSW Small Business Commissioner (the Commission) is an independent statutory office of the NSW Government. It provides strategic advice, advocacy and affordable dispute resolution services across NSW.

Earlier this year I provided feedback to IPART regarding the *Competitive Neutrality in NSW Issues Paper* and our experience with the NSW competitive neutrality framework. This feedback included the perceptions of many small businesses that they are subject to an unfair competitive environment in the ECEC sector. These small businesses raised concerns in relation to government-funded free pre-school programs, payroll tax exemptions and centres operating with nominal rent for the use of community or council owned premises available to not-for-profit, community and government services. Stakeholder feedback also indicated these competitive advantages affect the affordability, accessibility and consumer choice in ECEC.

The Commission notes that stakeholders have consistently provided feedback to the Commission on the ECEC sector's complex regulatory system and reporting requirements, skills and staffing shortages, government processes and the competitive environment.

The Commission recently released a report into the experiences of operators within the ECEC sector. When finalising the terms of reference for the review of ECEC affordability, accessibility and consumer choice, IPART may wish to consider key findings and recommendations relating to the report which can be accessed on our [website](#).

The Commission encourages for the terms of reference to be sufficiently broad in scope to consider the following factors.

#### Assistance provided by local government

The terms of reference summarise the financial assistance the Australian Government provides, and the funding, service regulation and direct service provisions provided by the NSW Government. While the terms of reference identify that local government can provide services, it can also identify that local governments can provide other support, such as making council owned premises available to not-for-profit, community and government services for nominal rent.

## Review of labour supply issues

The terms of reference identify that the review will report on factors which drive the supply of services; and the affordability, accessibility and consumer choice across different children and family groups, geographies, service types and provider types.

I encourage a broad interpretation of these terms to also consider the factors that drive labour supply, as feedback to the Commission indicates labour supply issues vary across the sector and service type and can directly affect the supply and affordability of ECEC. The types of employee conditions available across different types of ECEC can also influence affordability, accessibility and consumer choice. For example, services that operate during school hours and terms can be more appealing to staff, but long day care service providers find it more difficult to secure necessary staff.

## Capture non-ECEC government assistance

The terms of reference specify that IPART is to have regard to the public funding and subsidy arrangements for providers and service provision. I would encourage consideration of subsidy arrangements that occur through funding, subsidies and incentives through non-ECEC policy areas and objectives. For example, payroll tax exemptions for not-for-profit services can affect the competitive environment and the ability for private sector operates to compete.

## The regulatory environment

The Commission notes the draft terms of reference to not explicitly reference consideration of regulatory requirements.

Many stakeholders have reported frustration at their experiences with regulatory systems and requirements which they perceive as contributing cost and operating as a distraction from the core services demanded by families. While a recent NSW Productivity Commission review examined the costs and benefits of staff ratio requirements, the Commission encourages further cost-benefit assessments of other regulatory requirements to be undertaken to ensure current regulatory requirements are optimised to maximise public value. This is an issue the Commission has drawn attention to in our aforementioned report.

Thank you for the opportunity to make a submission. If you require further information, please contact Megan Bennett, at [REDACTED]

Yours sincerely

Chris Lamont  
**Commissioner**  
**NSW Small Business Commission**

Date: 22 December 2022