



19 July 2019

Dr Paul Paterson
Chair
Independent Pricing and Regulatory Tribunal NSW
By email: ipart@ipart.nsw.gov.au

Dear Dr Paterson

**RE: SUBMISSION | IPART – REVIEW OF LOCAL GOVERNMENT ELECTION COSTS
(DRAFT REPORT)**

Sutherland Shire Council welcomes the opportunity to make a submission to the Independent Pricing and Regulatory Tribunal (IPART) on the draft IPART review of local government election costs.

We acknowledge IPART's work to fulfil its terms of reference to recommend:

- a robust methodology for allocating the costs incurred by the NSW Electoral Commission (NSWEC) in administering local government elections to minimise the financial burden on councils and ratepayers, while
- encouraging the NSWEC to provide its election services in an efficient and cost-effective way, and
- having regard to the market for electoral services in which the NSWEC operates.

Overall, we are encouraged to note IPART has identified \$2.6 million in NSWEC efficiency gains.

We also accept and support IPART's recommendations that NSWEC's costs should:

- be transparent and subject to appropriate scrutiny, and
- promote efficient decisions over time by councils in relation to the provision of election services.

However, we are concerned to note the NSWEC cost attribution model IPART recommends will result in an increase in Council costs to administer the 2020 local government elections by:

- 62% or \$607,000 compared to 2016 election costs charged by the NSWEC, or
- 39% or \$444,000 compared to 2020 election costs proposed by the NSWEC.¹

We respectfully submit the IPART recommended NSWEC cost attribution model will result in an increase to our Council and ratepayers for the 2020 local government election costs that is significant and unreasonable in the circumstances. Our reasons follow.

1. Current market failure

The current market for the provision of local government election services is a near-monopoly.² It is highly concentrated. Despite the introduction of contestability in 2012, the NSWEC remains the dominant provider of election services, with a market share of around 95% and there is only one private provider operating in the market; the Australian Election Company (AEC). AEC is

¹ IPART– Review of local government election costs (Draft Report), Table B.1, page 78.

² IPART– Review of local government election costs (Draft Report), page 11.

largely untested in NSW. As such, there is currently no real opportunity to limit cost via a competitive tender process.

If a council resolves to engage the NSWEC this means the Electoral Commissioner is then responsible for delivering a valid election result. Whereas if a council chooses to conduct its own election (with the support of a private provider), this risk is borne by the council's General Manager.³ Thus a decision to engage the NSWEC removes the risk associated with delivering a valid election result.

Further, recent amendments to the *Local Government Act 1993* mean that councils are no longer able to administer their own elections,⁴ even assuming they have the in-house capacity and experience to do so (and we do not).

Consequently, councils have no choice but to choose the NSWEC as a provider in the foreseeable future and it is only logical to do so.

Additionally, given the current market failure, actions taken to open the market will take several years before the market becomes competitive and predicted efficiencies gained – if in fact full efficiency can be obtained given the economies of scale benefit the NSWEC enjoys.⁵

As a result of this current market failure, there are no foreseeable benefits to councils in the short to medium term that arise from the IPART proposed NSWEC election cost attribution model.

2. Immediate financial impact to Council and its ratepayers

This Council (like many) budgets for election costs on an annual straight-line basis over four years. In the absence of any guidance from the Office of Local Government or NSWEC as to the 2020 cost we have been accruing for the cost based on our 2016 cost and spreading the impact over the four year term. Further we note, in the lead up to the 2016 local government election, the NSWEC provided us with a cost estimate 18 months prior to the election. That has not happened in the lead up to the 2020 local government election. We understand from the NSWEC this is because of the current IPART review. Further, the first and only indication we have received of the likely NSWEC 2020 local government election cost has been from the [REDACTED] IPART review report.

Consequently, we have not had any opportunity to build the proposed significant increase into Council's budget model and identify ways to fund it.

We note IPART propose to 'consider' the cost impact of its proposed NSWEC election cost attribution model when setting the rate peg for 2020/21⁶. However, we also note, IPART determines the rate peg each year by reference to the Local Government Cost Index (LGCI) and local government election costs are not an explicit component of the LGCI, and so the impact of this cost increase is limited to its influence on the movement in the CPI when calculating the LGCI. Therefore, even assuming there is an upward influence in the 2020/21 rate peg, this is highly unlikely to cover the total cost increase that will be payable in 2020/21.

Further, the recent amendments by the State Government to the annual Emergency Services Levy have resulted in an annual increase to Council of approximately \$327,000.

Therefore, having regard to the combined financial effect on Council and its ratepayers of the Emergency Services Levy and, if implemented, the IPART election cost attribution model,

³ IPART– Review of local government election costs (Draft Report), page 59.

⁴ OLG Circular No 19-12.

⁵ IPART– Review of local government election costs (Draft Report), page 1.

⁶ IPART– Review of local government election costs (Draft Report), page 53.

Council will incur an additional \$428,000 in unplanned or forecast expenses, or \$1,712,000 over the life of Council's four-year delivery program.

3. Inherently high NSWEC operating costs

As previously noted, whilst IPART have identified some NSWEC efficiencies there remains a serious question as to whether these have been fully realised. In fact we note IPART point out they most likely have not because of the current market failure and it is an open market model that will help drive efficiencies by the NSWEC.⁷ So in the meantime, we submit that councils pay for the inefficiency and in such circumstances it is not reasonable to apply an impactor-pays funding hierarchy.

4. Potentially more equitable funding models in other jurisdictions

When compared to other electoral commissions, the NSWEC notes its election charges to councils are, on average, higher than the fees in most other jurisdictions and it considers this is because more government funding is provided in other jurisdictions to fund a greater range of costs.⁸ However, we note IPART have provided no analysis as to the merits of this observation other than to state the impactor-pays funding hierarchy resolves it. For the reasons expressed above, at least in the short to medium term, there is no reasonable basis for this conclusion. We submit the merits of other jurisdiction models should be fully explored.

Council's overall position

For the reasons outlined above, we submit that:

1. should the IPART recommended NSWEC cost attribution model be adopted, then it should be adopted for the 2024 election, **not earlier**, giving us time to build the increase into Council's budget model and identify ways to fund it and allowing time for expected market efficiencies to manifest, and
2. the NSWEC proposed cost attribution model should be used for the 2020 local government election with the addition of the capital costs they have omitted to include and a reduction commensurate with the IPART efficiencies identified.

If you have any questions about this submission, please do not hesitate to contact me on [REDACTED]

Yours sincerely,

[REDACTED]

Clare Phelan
Director Corporate Support

⁷ IPART– Review of local government election costs (Draft Report), page 54.

⁸ IPART– Review of local government election costs (Draft Report), page 48.