



Gladys Berejiklian MP
Premier of New South Wales

Ref: A2850418

7 FEB 2019

Dr Peter Boxall AO
Chair
Independent Pricing and Regulatory Tribunal
PO Box K35
HAYMARKET POST SHOP NSW 1240

Dear Dr Boxall,

Please find enclosed terms of reference for the Tribunal to conduct a review of local government election costs pursuant to section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992*.

Yours faithfully,

Gladys Berejiklian MP
Premier

Terms of Reference – Costs of Conducting Local Government Elections

I, Gladys Berejiklian, Premier of New South Wales, under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992*, approve the provision of services by the Independent Pricing and Regulatory Tribunal (**IPART**) to the Minister for Local Government with respect to the costs of conducting local government elections, in accordance with the following terms of reference.

Background

In NSW, local government elections are generally conducted every four years, on the second Saturday in September. The next ordinary elections for councils are scheduled to be held in September 2020.

Under Part 6 of the *Local Government Act 1993* (the **Act**), councils may arrange for the NSW Electoral Commissioner (**NSWEC**) to administer their election, or the council's general manager may administer the election on the council's behalf. In practice, where the general manager of a council administers its election, the council will generally engage a commercial electoral services provider to assist the general manager with the conduct of the election.

In recent times, the vast majority of councils have engaged the NSWEC to conduct their elections. For example:

- in 2016, the NSWEC conducted 75 ordinary elections for councils, and 5 councils' elections were administered by their general managers
- in 2017, the NSWEC conducted 46 ordinary elections for councils; and 1 council election was administered by its general manager.¹

Councils are required to meet the costs of conducting their elections. That is the case irrespective of whether an election is administered by the NSWEC or by the council's general manager. NSWEC services required for local government elections, such as enrolment and non-voting services, are, however, provided by the NSWEC at no cost.

In the case of NSWEC administered council elections, the NSWEC provides councils with an estimate of costs in advance of the council's election, so that the council may determine whether to use the NSWEC to conduct its election. Where an election is administered by the NSWEC, the council will be invoiced for the costs of its election by the NSWEC.

Councils using the NSWEC are generally required to enter an arrangement with the NSWEC for the election well in advance of the election.² An arrangement can, however, be entered into at any time before the election if the council has resolved to enter the arrangement and the Electoral Commissioner is satisfied there are exceptional circumstances that make it necessary or desirable for the Electoral Commissioner to administer the election.³

The NSWEC uses a comprehensive costing model to identify and allocate its costs to the relevant councils. The NSWEC's costing model for the most recent ordinary elections for councils in 2017 is summarised in its Report on the Local Government Elections 2017 and extracted at **Schedule A**.

¹ Local government elections were conducted in two tranches in 2016 and 2017.

² Section 296(3) of the Act provides that an election arrangement for the Electoral Commissioner to administer all elections of a council can be entered into if: (a) the council resolves at least 18 months before the next ordinary election that such an arrangement is to be entered into; and (b) the arrangement is entered into no later than 15 months before the next ordinary election.

³ Section 296(5) of the Act.

Matters for consideration

IPART is requested to provide a report to the Minister for Local Government recommending a costing methodology to be applied in determining the amount the NSWEC charges councils which use the NSWEC to administer their ordinary elections.

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.

In undertaking the review, IPART is to:

- review the NSWEC's existing methodology for determining the amount to be charged to councils which use the NSWEC to conduct their elections
- consider whether it is appropriate for the amount charged to be limited to the direct and unavoidable costs of conducting the council's election
- have regard to the market for electoral services in which the NSWEC operates
- have regard to any differences in the costs involved in conducting elections in metropolitan and regional areas
- have regard to any other matters it considers relevant.

Consultation

IPART should consult with relevant stakeholders and NSW Government agencies as part of its review. It may also hold public hearings and publicly release a draft report.

Reporting

IPART is to submit its final report to the Minister for Local Government by Friday 30 August 2019.

Schedule A – Extract from NSWEC Report on the Local Government Elections 2017⁴

Financial and Funding Arrangements

Funding of Local Government Elections

Councils are required to meet the costs of conducting their elections. While the NSW Government does not provide direct funding for local government elections, some NSWEC services required for local government elections, such as enrolment and nonvoting services, are provided by the NSWEC at no cost.

For the second tranche of 46 councils, whose elections were conducted on 9 September 2017, the NSWEC issued budget estimates totalling \$20.87 million. The actual expenditure came in under budget, at \$19.17 million.

The election management fee, which had been estimated at \$7.62 per elector, was delivered at \$7.01 an elector. We charged a total of \$1.914 million in fees, down from the \$1.919 million estimate issued to councils. Independent accounting firm PriceWaterhouseCoopers was engaged to conduct a review of the level of NSWEC overhead, as applicable to the delivery of the LGE event.

The NSW Government has provided the NSWEC with additional funding of \$17.0 million to assist in conducting the 2016 and 2017 local government elections. This funding reflected the additional costs incurred in conducting the elections in more than one tranche.

Council Costing Model for the 2017 Local Government Elections

The NSWEC undertook a comprehensive budget estimation process, identifying and calculating estimated costs for individual council expenses. The broad process for developing the budget for the 2017 Local Government Elections and individual council budgets involved five major stages.

All 2017 Local Government Elections projects and associated activities were identified and quantified.

The budget estimates were then developed, using a 'zero based' or 'bottom-up' budget methodology that involved itemising volume and unit costs for each project, the tasks for each month and identifying the financial years 2016/17 and 2017/18 which were impacted.

Those costs which could be attributed to the council amalgamations activity and effort associated were quantified and charged to the state government appropriation.

We then undertook substantive testing of these budget items and their estimated costs, using the most reliable cost schedule available that is the 2016 Local Government Elections.

Finally, we allocated the costs for each project to individual councils using the applicable methodology for the activity involved in each project. The methodologies applied were either:

- cost per elector
- actual costs incurred in specific council areas and/or
- allocation for Regional Returning Officer based on elector numbers.

This enabled equitable sharing of overheads applicable to all councils separately from costs specific to each council.

⁴ NSW Electoral Commission's *Report on the Local Government Elections 2017*, page 21. A copy of the report is available on the NSW Electoral Commission's website at www.elections.nsw.gov.au/About-us/Reports/Election-reports