

LGNSW Submission

IPART Review of NSW Fire and Rescue - Fees and Charges.

October 2021

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1. Introduction

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to comment on the draft report of the Independent Pricing and Regulatory Tribunal (IPART) Issues Paper on the Review of NSW Fire and Rescue (NSWFR) Fees and Charges. As local government provides 11.7% of the core funding for FRNSW through the Emergency Services Levy (ESL), it has a legitimate interest in the financial management and practices of NSWFR. Councils also have an interest in many of the services for which fees and charges are applied, particularly those relating to building and development.

LGNSW is disappointed that the Terms of Reference for this review do not extend to include the ESL on councils and insurance policies, which make up nearly 90% of FRNSW's revenue and is instead restricted to the relatively small fees and charges component of FRNSW total revenue. We note that fees and charges represent only around about 7% of FRNSW revenue or \$50-55 million per year over the past five years.

This submission was endorsed by the LGNSW Board in October 2021.

2. General Comments

LGNSW commends IPART on the Issues Paper. It provides a comprehensive and well structured explanation of the operations of FRNSW, the current fees and charges regime, pricing principles and the issues to be considered.

LGNSW welcomes the assurance that IPART or the NSW Government are not proposing to consider user charges for the core services of attending and investigating fires, undertaking rescue operations, or providing community safety preparedness and engagement services. The core responsibilities of all emergency services should ultimately be funded from consolidated revenue, although they remain largely funded by the ESL. These are universal and essential services.

LGNSW acknowledges FRNSW's long standing practice of applying fees and charges for non-core services, particularly where there are defined and identifiable impactors or beneficiaries. LGNSW generally supports the application of fees and charges for non-core services in these circumstances. LGNSW also recognises the need for fees and charges to be regulated where they are imposed by legislation and can only be obtained from a monopoly service provider, as is the case with many of the services provided by FRNSW.

LGNSW also appreciates that the fees and charges revenue stream reduces demand on the ESL as a source of revenue. However, being such a small stream of revenue, the impact is marginal at best. Nevertheless, it is important that full cost recovery is achieved in delivering non-core services and the review should seek to identify and correct under recovery. A new pricing structure must provide for this.

This IPART Review is only focussed on providing an efficient pricing structure to a relatively small proportion of FRNSW's revenue stream. LGNSW is firmly of the view that the same efficiency and equity principles should apply to all revenue sources and the entire FRNSW budgetary process and that of the other major emergency services agencies funded by the ESL (i.e. the Rural Fire Service and State Emergency Service). The current budgetary processes lack equity, efficiency, transparency and consistency. This is discussed in more detail in the following discussion of the ESL.

3. Replace the Emergency Services Levy (ESL)

LGNSW has long advocated for the introduction of a broad-based property levy to replace both the Emergency Services Levy on insurance policies and the 11.7% ESL on local government.

Councils are struggling with the ever-increasing cost of the ESL. Steep annual increases over the past decade and the particularly large increases in 2019-20 and 2020/21, are eroding council budgets to the extent that they are severely impacting on the ability of many councils to maintain spending on infrastructure and services.

The ESL on councils is inequitable as it does not apply consistently or equitably across all councils. While the levy is now collected centrally through Revenue NSW, each of the services have different budgetary structures and cost allocation mechanisms. There are different regional structures and allocations are variously based on land valuation and/or population.

This complex budgetary process is largely incomprehensible to councils and the general public. Apart from the obvious lack of transparency in the budgetary process, one of the consequences is that the cost burden occurs disproportionately across councils and therefore ratepayers. The cost burden on councils is greatest on rural and regional councils with small rate bases and a relatively large RFS component. For example, the 2.6% rate peg will provide an additional \$120,000 in revenue to one rural council in 2020/21 but \$81,000 or 67.5% of the increase will be consumed by the increase in ESL leaving little to offset increases in other expenses.

The FRNSW component adds to this burden in many regional councils and those on the urban periphery.

This situation is not financially sustainable for councils. The ongoing erosion of the revenue base of councils cannot be allowed to continue. Many councils have already been pushed into deficit by the ESL. Several will find themselves in serious financial difficulty if the current funding arrangements continue.

The State Government implicitly recognised the impact of the ESL by providing rebates to assist councils with large increases in 2019/20 (\$16.4 million), 2020/21 (\$32.8 million) and by a smaller amount for 2021/22(\$3.6 million). However, we have been advised that these one-off rebates will not be continued. It should also be noted that the increases in those years will form part of the cost base for future years which will have to be fully funded by councils.

As previously noted, the emergency services are largely funded by the ESL on councils and insurance policies. The NSW Government contribution is relatively small and the ESL lacks transparency. LGNSW maintains that as a result, the emergency services agencies are not subject to the same budgetary rigour and scrutiny as other NSW Government agencies.

4. LGNSW Response to IPART Discussion Questions

IPART Question/Proposal	LGNSW Comments	Agree/ Disagree /Other
<p>1. Do you agree with the proposed principles – equity, efficiency and risk mitigation –for identifying which of FRNSW’s services should be subject to user charges? What other principles, if any, should apply? 18 (page ref)</p>	<p>LGNSW agrees that these principles should apply in determining application of user fees and charges. Application of the risk mitigation principle may be difficult to assess as risk mitigation actions that benefit an individual may also benefit the broader community and therefore represent core business.</p> <p>Transparency and consistency are additional principles that should be applied.</p>	<p>Agree</p>
<p>2. Do you agree that: – Only those of FRNSW’s user charges which apply to monopoly services should be set out in the Fire Brigades Regulation – FRNSW should have more flexibility to set and change charges for services they offer in a competitive market? If not, why not? 19</p>	<p>Regulation should definitely apply to monopoly services. Regulation should provide for full cost recovery.</p> <p>Regulation should not be necessary or appropriate in a fully competitive market. However, there needs to be an assessment of whether it is a developed market and that there is an effective level of competition, particularly in regional areas where markets may be thin.</p>	<p>Agree</p>
<p>3. Do you agree with the proposed pricing principles that FRNSW’s charges should be transparent, cost-reflective, equitable, creating positive incentives, simple, flexible; and consistent? Should we include any others? 19</p>	<p>LGNSW supports the proposed pricing principles. This is a universal list of pricing principles.</p> <p>The same principles should apply to the entire budgetary processes for NSWFR and the other emergency services.</p>	<p>Agree</p>
<p>4 (a). Which of FRNSW’s services related to fire safety in the built environment should have user charges?</p>	<p>4 (a) LGNSW notes that FRNSW is the monopoly provider of a number of services related to fire safety in the built environment but does not currently charge for them. These include:</p> <ul style="list-style-type: none"> • assessing fire safety complaints relating to buildings or structures • compliance audits of fire safety 	<p>4 (a) Maintain</p>

<p>4 (b) Which of FRNSW's services related to hazardous materials should have user charges? 27</p>	<ul style="list-style-type: none"> • undertaking joint inspections with councils or consent authorities of the fire safety provisions • advisory, compliance and inspection services conducted through Government programs such as the Overcrowding Taskforce, Cladding Taskforce and Project Remediate. <p>Many of these services and responsibilities are related to FRNSW's other regulatory services to ensure community and firefighter safety in the built environment.</p> <p>LGNSW considers these types of services to be core responsibilities and user charges should not be applied.</p> <p>4 (b) The safe handling of hazardous materials is the responsibility of the individuals, businesses or agencies in possession or with authority over the materials. In most cases there will be a clearly identifiable impactor. Current fees and charges policies should be maintained but applied more consistently.</p>	<p>4 (b) Maintain</p>
<p>5. Have we identified all FRNSW's non-core services? Non-core services include</p>	<p>LGNSW is not aware of any omissions. While we note that FRNSW does not usually charge for responses made outside their fire districts, we question the principle behind this provision.</p>	<p>N/A</p>

<p>FRNSW's services other than responding to fires within its designated fire districts; community safety preparedness and engagement; and rescues. 27</p>	<p>Attending a fire, within or outside of a defined fire district would appear to be core business. It shouldn't be subject to user charges.</p>	
<p>6. Do the following 3 categories accurately and appropriately reflect FRNSW's noncore services? Have we classified FRNSW's services into the 3 categories correctly? 27 – monopoly services – contestable services – services provided to other agencies and jurisdictions.</p>	<p>LGNSW agrees that the identified categories are appropriate and comprehensive.</p>	<p>Agree</p>
<p>7. Have we identified FRNSW's monopoly services correctly? Are there any other FRNSW's services that we should classify as monopoly services? 27</p>	<p>LGNSW has not identified any additional monopoly services.</p>	<p>Agree</p>
<p>8. Have we identified FRNSW's contestable services correctly? Are there any other FRNSW's services that we should classify as contestable services? 28</p>	<p>LGNSW has not identified any additional contestable services.</p>	<p>Agree</p>
<p>9. Which services provided to other agencies and jurisdictions should be user charged?</p>	<p>The provision of services that basically involve sharing of capacity, such as business operations support, call centres and dispatch services, facilities etc should be encouraged and subject to charges based on cost recovery and be proportionate to usage.</p>	<p>N/A</p>

<p>Should those charges be set out in the Fire Brigades Regulation? 30</p>	<p>Charges should be negotiated between the agencies not prescribed in the FB Regulation. Regulation should only extend to pricing principles i.e. cost recovery.</p>	
<p>10. How should we classify these other services into the three categories of FRNSW's services (i.e. monopoly services; contestable services; services provided to other agencies and jurisdictions)? Also, should any of these services be subject to user charges and have charges set out in the Regulation? 30</p>	<p>LGNSW comments on the examples presented are as follow:</p> <ul style="list-style-type: none"> • responding to requests for information about incidents, including from individuals and insurers. <p><i>Monopoly service should be subject to regulated charge.</i></p> <ul style="list-style-type: none"> • attendance at community events such as fetes and fun runs <p><i>Generally, this should not be subject to fees or charges. It is an opportunity for community relations and fire safety education.</i></p> <ul style="list-style-type: none"> • assisting with lift extractions <p><i>Contestable service under some circumstances. Charges should be levied on building owner or manager. Should not apply if in relation to fire or other emergencies.</i></p> <ul style="list-style-type: none"> • assisting with reptile handling <p><i>Why is FRNSW doing this?</i></p> <ul style="list-style-type: none"> • providing assistance with Remote Piloted Aircraft Systems (drones). <p><i>Cost recovery only if associated with emergencies or disasters.</i></p> <p><i>Contestable if for private or commercial purposes.</i></p>	<p>N/A</p>
<p>11. Do you agree with our proposed approach of recommending charges for the first year and adjusting charges based on a cost index? If not, do you think we should recommend charges for each year? If so, why? 32</p>	<p>LGNSW agrees with setting equitable and efficient prices for the first or base year and adjusting by an appropriate cost index for subsequent years.</p> <p>This will help ensure regulated fees and charges remain reflective of cost movements.</p> <p>(This practice should also be applied to regulated local government fees and charges).</p>	<p>Agree</p>
<p>12. Do you agree with recommending charges for five years? If not, what time period do you prefer and why? 32</p>	<p>A review after five years and resetting of base charges would be appropriate.</p>	<p>Disagree</p>
<p>13. Do you agree with our proposed approach of using the cost build-up to estimate the</p>	<p>LGNSW supports in principle but questions basing the margin allowance on the construction industry. (Refer 18).</p>	<p>Agree in principle</p>

total revenue requirement? If not, which approach do you prefer and why? 35		
14. Do you agree with our proposed approach for estimating efficient operating costs? If not, which approach do you prefer and why? 35	The proposed approach appears to be appropriate.	Agree
15. Are there opportunities for FRNSW to provide its non-core services more efficiently? Non-core services include FRNSW's services other than responding to fires within its designated fire districts; community safety preparedness and engagement; and rescues. 35	(Refer 16 below)	Agree in principle.
16. Do you think the current charges for FRNSW's services (where relevant) reflect the efficient cost of providing them? 35	It is likely that many of the current service charges do not reflect the efficient costs of providing them: <ul style="list-style-type: none"> • FRNSW fees and charges have not previously been subject to this form of review. • The Issues Paper reports that many of the regulated fees and charges have not been adjusted for many years. 	Agree in principle
17. Do you agree with our proposed approach of including a margin allowance to compensate FRNSW for committing capital investment? If not, which approach do you prefer and why? 35	This appears to be consistent with practice.	Agree

<p>18. Do you agree with using listed companies in the construction industry as comparable businesses to FRNSW to estimate a reasonable margin? If not, which industry provides alternative benchmarks? 35</p>	<p>LGNSW supports in principle but questions basing the margin allowance on the construction industry. While offering some contestable services, FRNSW it is not a private business and does not face the same risks as construction firms. While there is a correlation between building activity and FRNSW revenue, a margin based on the construction industry may need to be adjusted.</p>	<p>Agree in principle</p>
<p>19. Are there any other charging structures that we should consider other than those listed below? 38 – a fixed charge – a variable charge – a combination of a fixed and variable charge (e.g. a call out fee plus a timebased charge, an administration fee plus a time-based charge) – charge based on property value.</p>	<p>LGNSW has not identified any additional charging structures.</p>	<p>Agree</p>
<p>20. Are there specific FRNSW services for which we should review charges to improve equity and efficiency? If so, which services? 38</p>	<p>The flat fee structure for false alarms. Flat pricing does not reflect actual costs of providing the service. A scaled or time-based model should be adopted, but the price should be sufficiently high to provide an incentive to maintain alarm systems in good operating order.</p>	<p>N/A</p>
<p>21. Are there any other issues with the current regulatory framework for charging? 41</p>	<p>The Issues Paper appears to have identified all the key issues.</p>	<p>N/A</p>
<p>22. Do you agree with keeping the current regulatory framework but improving it by:</p>	<p>It appears that the deficiencies and inconsistencies identified can be addressed within the current regulatory framework. This would be the preferred approach.</p>	<p>Agree</p>

<ul style="list-style-type: none"> – making the basis for charging simple, consistent and cost reflective – giving FRNSW more flexibility around charging – including a cost index in the FB Regulation to enable FRNSW to update its charges periodically? <p>If not, why not? 45</p>	<p>More flexibility around charging would be appropriate for contestable services where an effective competitive market exists.</p> <p>Monopoly services should remain regulated.</p>	
<p>23. Do you agree with our proposed approach of using a single, externally published index as a cost index for adjusting FRNSW's charges? If not, why not? 45</p>	<p>A tailored composite index like the Local Government Cost Index (LGCI) be worth investigation as a potential option.</p>	<p>Partially agree.</p>
<p>24. Do you agree with our proposed approach of using the Consumer Price Index for Sydney to update FRNSW's charges? If not, why not? 4</p>	<p>As labour costs represent 80% of FRNSW operating costs a wage index is likely to provide a more accurate reflection of cost movements.</p> <p>LGNSW has advocated using award movements in calculating the wage component of the LGCI.</p>	<p>Disagree</p>

5. Conclusion

LGNSW welcomes this review. It is clear from the Issues Paper that a comprehensive review of the patchwork of charging policies and practices developed over time is long overdue.

LGNSW agrees with the proposed pricing principles. Apart from being efficient and equitable, fees and charges should be transparent, cost-reflective, simple, flexible, consistent and provide clear pricing signals. These principles should also be applied to regulated fees and charges in local government.

As stated upfront, LGNSW is disappointed that the Terms of Reference for this review do not extend to include the ESL on councils and insurance policies, which make up nearly 90% of FRNSW's revenue. LGNSW is firmly of the view that the same principles should apply to all revenue sources and the entire budgetary processes of all the emergency services funded by the ESL.

While acknowledging that the ESL remains outside the scope of this review, a point repeatedly emphasised throughout the Issues Paper, LGNSW would appreciate IPART making reference to the need for a review of the ESL.

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