

## **Final Submission to IPART Review of Fees for NSW Trustee and Guardian**

### **Executive Summary**

NSW Trustee and Guardian (NSWTG) has provided two previous submissions in relation to this review; on 16 June 2014 in response to the original IPART Issues Paper and on 23 September 2014 in response to the IPART Draft Report. Both of these submissions are available on the IPART website. This final submission provides clarification and elucidation of issues covered in the previous two submissions and further information in relation to issues raised at the Hearing on 23 September 2014.

NSWTG continues to hold the view that it accepts many of the recommendations, but has considerable concern with others. We maintain the position that several recommendations are based on inaccurate assumptions, are unreasonable or overly costly to implement and manage, or would make our fee structure complex and difficult to understand from a client's point of view.

While we understand IPART's economic approach to cost recovery, we believe they have adopted an academic position that fails to recognise the nature and type of business of NSWTG and the economic cycles over which it has no control but which materially impact our clients and finances.

We believe IPART has fundamentally failed to understand what constitutes a reasonable ongoing surplus required for NSWTG to remain a self-funding entity, one that is capable of delivering vital and quality services to our clients into the future particularly in light of the likely significant increase in demand for our services in the future due to the aging population. Our analysis indicates that the draft review's suggested surplus of \$1.5m is short by around \$7m - \$8m and this will threaten our sustainability and therefore service delivery.

We submit that our revised fee schedule, provided in the 23<sup>rd</sup> of September is the minimum required in order to ensure that services to our clients, agreed by all to be amongst the most vulnerable in the community, are not adversely affected.

We continue to refute, in the strongest terms, the IPART analysis of what does and does not constitute an involuntary client. We provide a series of real case studies to further explain our position.

We have answered several questions and provided clarification on statements arising from the hearing which, left unaddressed could be misleading.

We have provided further, very clear data, which demonstrates an increase not decrease in workload as suggested by IPART.

We have provided further information on capital adequacy requirements and our clear responsibilities under the Trustee Act, neither of which we believe IPART has taken into appropriate consideration.

We repeat for the record – NSWTG is not a controlled entity and is therefore not an “on Budget” agency and must be largely self-funding including provision for its own capital works program. Many of the reforms which we seek to implement and IPART would presumably support (new Client data management system and greater automation of activity) will not be possible under the IPART proposed fee schedule. CAPEX expenditure for NSWTG has not, in recent history, if ever come from Government.

We have provided publicly available comparative data on fees for funds under management which clearly show the 0.1% proposed by IPART to be nowhere near an industry standard. In fact the existing NSWTG fees are considerably lower than any other Trustee.

From the outset of the IPART Review NSWTG has been concerned to simplify its fee structure in the interest of client’s ability to understand fees and as a secondary benefit to streamline administration where possible. We believe the proposed IPART fees achieve the exact opposite on both levels. They will be very hard to understand and will be overly cumbersome to administer and are likely to drive costs to serve upwards.

IPART has now been provided with access to additional information not previously able to be provided. We respectfully request that they consider all of the available information before them and revise their draft recommendations accordingly.

## **Structure of this Submission**

This document is in two parts – the first part dealing with specific comments made during the hearing on 23<sup>rd</sup> September 2014 and the second part dealing with more general supporting evidence for our position.

## **IPART Hearing**

All parties present were, we believe, genuinely concerned about the impact of change in any direction on the clients of NSWTG, particularly those most vulnerable. Throughout the course of the hearing a number of issues were canvassed and some clarification provided. Others were taken on notice and we provide answers below.

### ***Page 34 commencing at line 13 (related to NSWTG fees)***

If a person has only a Centrelink benefit and no other feeable assets NSWTG charge approx \$0.70 per fortnight in management fees. This is not reflective of the cost of work undertaken, even in the most basic of matters.

Where a person has chargeable investment assets NSWTG levies a fee of 1.1 % per annum. In the first year of management an additional fee of 1% is charged. The maximum fee any person under Financial Management will pay is \$17,000 for the first year and \$15,000 in subsequent years. **To reach those amounts; chargeable assets would need to be \$1.35 million or over.**

**Page 36 commencing at line 6**

NSWTG has never and would never force the sale of a client's home simply to pay our fees. Situations do arise where, following a client moving into an Aged Care Facility (ACF), the sale of the home becomes the best option financially for the client, due to the accommodation bond and fee liability from the ACF.

It is important to note the most recent changes in ACF legislation, fees and the impact on clients. The new scheme came into effect on 1 July 2014 and introduces new caps on chargeable fees by ACF providers. People admitted to an ACF prior to 1 July 2014 will remain on the old fee system. Should they move facilities or elect to be reassessed, the new fee structure will apply. Where a person leaves a facility and does not re-enter a facility within 28 days, the new fees structure will apply.

Aged care fees are set by the Federal Government. The basic daily care fee is 85% of the aged pension. Every person is required to pay this amount regardless of income or assets. A person may also be asked to pay an accommodation charge or a bond. These amounts are determined by the Department of Health and Aging and are calculated on the basis of assets owned by the person at the date of entry into the facility including the family home.

The interest on unpaid accommodation charges or bonds levied is also set by the Federal Government, currently 6.69% and adjusted every 6 months. Facilities do not have to charge the maximum. They can elect to charge a lesser amount although NSWTG has not seen any instances where this has occurred. Applications for a reduction in bond or fees can be made based on hardship grounds and a determination is then made by Dept of Health and Aging. Once NSWTG are informed of the fees or bond that is required we have a legal obligation to pay those costs. This may result in the sale of a home if no other funds are available.

If the client has an accommodation liability (i.e. is paying an accommodation charge or there is a balance owing on the bond) and the property is rented the home and rental income will remain exempt for Centrelink purposes. Centrelink will allow a person two years from the date of entry into a facility before deeming the value of the home for pension calculation purposes. It is important to note that Department of Health and Aging and Centrelink treat each assessment of fees on an individual basis.

So the liabilities arising from a move into an ACF are not the result of any NSWTG fees. As noted in the transcript at page 37, line 28, NSWTG is not able to make the determination as to when the move into an ACF is best for the client, our role is generally to manage the client's financial position following such a decision.

**Page 36 commencing line 27**

NSWTG does not take a commission for selling a property.