

Terms of Reference

Review of the current method of rent determination for domestic waterfront tenancies in NSW

I, Kristina Keneally, Premier of New South Wales approve the provision of services by the Independent Pricing and Regulatory Tribunal (IPART), under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992*, to the Minister for Lands and the Minister for Ports and Waterways by conducting a review in accordance with the following terms of reference.

IPART is requested to review the current method of rent determination for domestic waterfront tenancies and to recommend if and how it should be revised.

IPART should have regard to the following in undertaking this review:

- the need to ensure that the NSW Government, on behalf of the community, receives a proper commercial return on publicly-owned assets occupied by domestic waterfront tenants;
- whether or not the current elements of the rental formula are operating as intended over time to achieve the objectives of market return, operational efficiency, consistency, and equity to all stakeholders;
- the appropriateness of the 50% discount factor as a general concession to all tenure holders, given the diversity of these tenancies;
- clarification of the frequency and methodology for review of and update of elements of the rental formula as defined by IPART;
- the appropriateness of the current methodology used to define precinct boundaries;
- the reasonable administration costs of managing the portfolio of tenancies;
- the need for a consistent approach to domestic waterfront tenancies regardless of the agency or legislative regime; and
- any other matters that IPART considers relevant.

As part of its review, IPART is required to consider relevant reports, including the NSW Audit Office's 2009 performance audit and the 2010 report by KPMG on the rate of return. IPART is also required to consider relevant cases in the NSW Local Land Board and the NSW Land and Environment Court.

IPART is to provide a final report to the Ministers within 12 months of the date of approval for the review.

Background

In 2004, IPART recommended a formula to provide an appropriate rental return to the NSW Government for the occupation and use of domestic waterfront tenancies, taking into account the appropriateness of achieving a reasonable return on this valuable community asset, and including appropriate equity arrangements.

The formula has been applied to 8500 tenancies across NSW by both the Land and Property Management Authority and NSW Maritime.