

Our reference: 15/701

PO Box K35, Haymarket Post Shop NSW 1240
Level 15, 2-24 Rawson Place, Sydney NSW 2000
T (02) 9290 8400 F (02) 9290 2061
ABN 49 202 260 878

17 September 2015

www.ipart.nsw.gov.au

The Director
General Purpose Standing Committee No 6
Parliament House
Macquarie St
Sydney NSW 2000

Contact **Hugo Harmstorf**
T (02) 9290 8400

Dear Ms Foley

**INQUIRY INTO LOCAL GOVERNMENT IN NSW -
IPART'S POST-HEARING RESPONSES TO THE COMMITTEE**

I refer to IPART's appearance before a hearing of the General Purpose Standing Committee No 6 on 24 August 2015. As requested, I attach a corrected transcript and answers to questions on notice taken by IPART during the hearing.

IPART does not seek the opportunity to provide additional information to the committee.

Should you have any questions about this matter, please contact Mr Hugo Harmstorf on

Yours sincerely


Hugo Harmstorf
Chief Executive Officer

INQUIRY INTO LOCAL GOVERNMENT IN NEW SOUTH WALES

Responses to questions taken on notice by the Chairman of the Independent Pricing and Regulatory Tribunal (IPART)

Question: Is IPART part of the executive branch of government?

Response:

IPART is part of the executive branch, but it differs from government departments and most government agencies. IPART is an independent statutory body corporate established under the *Independent Pricing and Regulatory Tribunal Act 1992* (IPART Act).¹ IPART's powers are derived solely from statute.² Tribunal members are statutory officers and do not form part of the public service.³

Please also refer to relevant sections of the transcript, including at page 29 and page 32, for further comment.

Question: How is information about councils' water utilities businesses being used in the assessment process?

Response:

Councils submitting either a Council Improvement or Rural Council proposal were required to separately report on their water utility performance, where these councils provide water and sewer services (Section 2.4 of the relevant templates). Information required included performance against the NSW Government's Best Practice Management of Water Supply and Sewerage Framework, infrastructure backlog, proposed capital works and their funding sources and strategies to improve performance. Other sections required councils to report their General Fund performance, excluding the impacts of water business funds.

In accordance with IPART's Assessment Methodology, we are considering how the information provided by councils about their water utilities businesses demonstrates any impact on the performance of the General Fund against the seven benchmarks across the three financial criteria, and also the impact of water utility performance in relation to the scale and capacity criterion.

¹ Section 5(1) of the IPART Act.

² Section 5(2) of the IPART Act.

³ Section 2 of the IPART Act; Schedule 1, part 3 of the *Government Sector Employment Act 2013*.

Question: How did the methodology change late in the process before councils were required to submit their proposals?

Response:

The timeline for development of the assessment methodology was:

September 2014	Government's response to the Final Report of the Independent Local Government Review Panel (ILGRP) released; criteria and benchmarks for assessing if a council is 'Fit for the Future' published
October 2014	Templates and Guidance material for Council Merger and Council Improvement proposals released by OLG
January 2015	Template and Guidance material for Rural Council Proposal released by OLG
22 April 2015	Terms of Reference received appointing IPART to act as the Expert Advisory Panel and specifying requirements of the assessment methodology
27 April 2015	<i>Methodology for Assessment of Council Fit for the Future Proposals – Consultation Paper</i> released
25 May 2015	Consultation period closed
5 June 2015	<i>Methodology for Assessment of Council Fit for the Future Proposals – Assessment Methodology</i> released

The criteria and benchmarks were established by the Government in September 2014.

OLG's Templates and Guidance material:

- ▼ further explained and clarified the scale and capacity criterion
- ▼ provided a definition and explanation of all seven financial sustainability measures and benchmarks
- ▼ clarified, where relevant, that the benchmark must be met as a three-year average, and
- ▼ outlined the rural council characteristics and how a rural council's performance would be assessed against the criteria and benchmarks, and provided options for improving performance against the benchmarks.

The draft assessment methodology responded to requirements for the methodology which were set out in the Terms of Reference, and further clarified statements in OLG's Templates and Guidance material with reference to the ILGRP's Final Report. The benchmarks remained as defined in September 2014. Key features included in the draft were:

- ▼ the assessment rating (ie, Fit, Not Fit, Deemed Not Fit)
- ▼ how scale and capacity as the threshold criterion would be assessed, in relation to the ILGRP's preferred option

- ▼ for the other criteria, how performance against the benchmarks would be assessed, including the relative importance of, and the timeframes for, achieving them
- ▼ for Rural Councils, adopting different timeframes for achieving some benchmarks, and considering the impact of Financial Assistance Grants (FAGs) when assessing allowing inclusion of Financial Assistance Grants (FAGs) in calculating the Own Source Revenue ratio, and
- ▼ explanations of how the assessment would accommodate the social and community context, the council's consultation process, and water utility performance.

As advised during the hearing (see Transcript page 35) the final assessment methodology indicated where the methodology had changed in response to feedback (from submissions and the public forums), and explained the reasons for not making changes in other cases. The criteria and benchmarks were as established by the Government (in September 2014) and it was not IPART's role to reconsider or change them. The key changes were to:

- ▼ further describe scale and capacity and how each would be assessed
- ▼ amend the reference to what councils proposing an alternative to the ILGRP's preferred option need to demonstrate (ie, that it is 'as good as or better than' rather than 'superior to')
- ▼ clarify that a council's proposal will be assessed against the financial sustainability criteria overall, rather than as a pass/fail on the benchmarks
- ▼ indicate that any additional information councils provided about meeting the benchmarks would be considered when the financial criteria were assessed, and
- ▼ extend the category of councils considered to be a 'rural council' for assessing the financial criteria.