

## IPART Fact Sheet

# Stakeholder Guide

May 2007

## What is IPART?

IPART is the independent economic regulator of selected water, transport, electricity and gas industries in NSW. It provides an integrated system of economic and licence regulation in NSW that covers water, electricity, gas and transport industries. It also administers the Greenhouse Gas Reduction Scheme and its register of abatement certificates.

As well as undertaking work related to water, transport and energy, IPART is the NSW Government's economic and policy think tank, providing independent advice on issues of social policy, pricing, industry structure and competition. A complete list of the Tribunal's current work program is available on [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au).

IPART is committed to consulting widely and effectively with all stakeholders, explaining carefully the reasons for its decisions.

This fact sheet explains how IPART undertakes its reviews.

To effectively consider all of the matters required in a review, IPART depends on detailed submissions from its stakeholders. These submissions assist IPART to fully understand the background to its inquiries and the consequences of its findings and recommendations for stakeholders including the businesses it regulates, government and customers. This fact sheet provides a guide to the key stages in IPART's reviews and how stakeholders can best provide input to IPART's processes.

## How does IPART work?

IPART currently consists of three permanent members appointed by the Premier. The current Tribunal members are Michael Keating AC (Chairman and Part Time member), James Cox (CEO and Full Time Member) and Sybille Krieger (Part Time Member). Temporary members may be appointed for particular inquiries. IPART reaches its final decisions on prices and other recommendations to Government after an extensive review and consultation process. It is supported in this work by the IPART secretariat.

The IPART secretariat provides research, analysis and advisory services that support IPART's investigations and public processes. It manages IPART's review processes, including liaison with stakeholders, preparation and publication of reports and the IPART website. Secretariat staff have a diverse range of professional backgrounds including economics, finance, accounting, law and engineering, and have extensive experience in policy development and implementation. The secretariat consists of teams who undertake research, investigation and analysis to provide professional advice to the Tribunal. Each team is led by a director, program or project manager, and includes a number of analysts (depending on the complexity of the review). General Counsel and legal staff provide advice to the industry teams and to the Tribunal.

IPART often commissions external consultants to undertake specialist research and provide advice as independent experts on specific topics. If necessary, it also seconds staff from other relevant government agencies to assist with investigations.

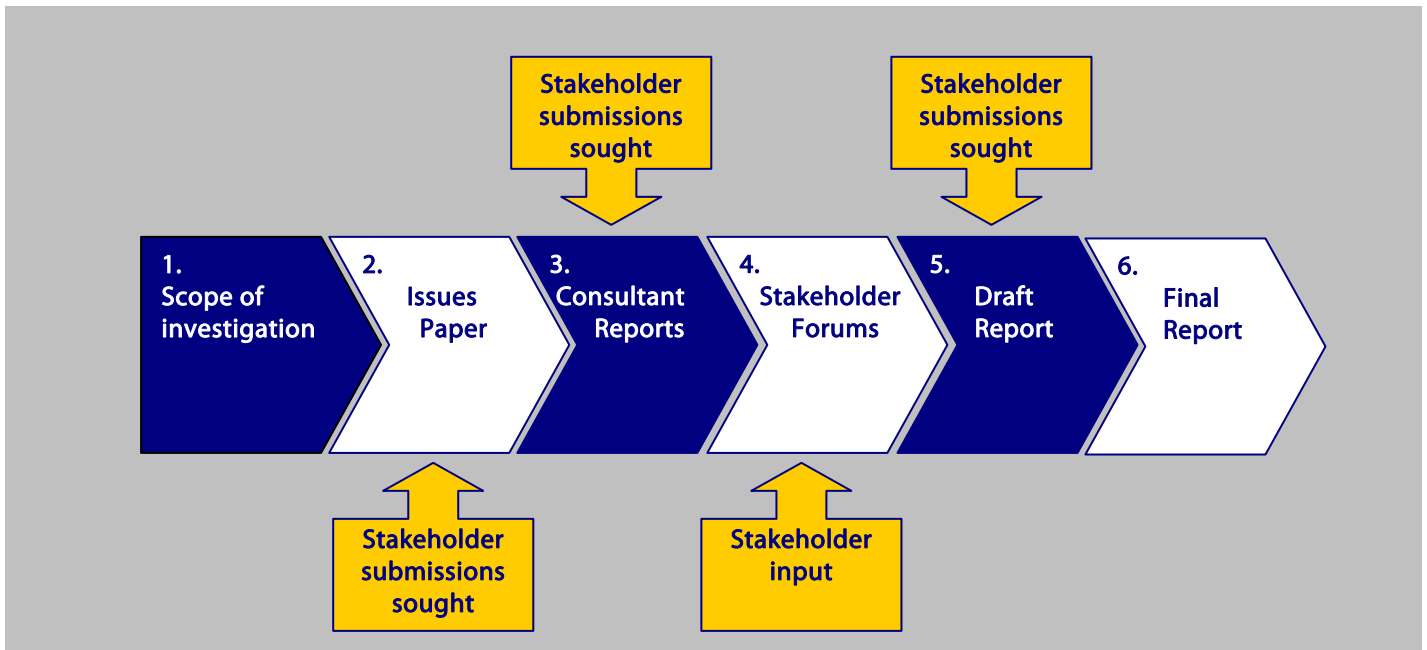
Tribunal members meet usually weekly to provide direction to the secretariat and make decisions. At these meetings, Tribunal members review and discuss briefings prepared by the secretariat. These briefings use information obtained from a wide range of sources, including from submissions from interested parties and members of the public, other regulators, and independent resources. The secretariat provides its views on each issue. However, it is the Tribunal's decisions that are final and provide the basis for all reports issued in a review.

The secretariat ensures that each submission is taken into account by the Tribunal in making its recommendations and determinations. The Tribunal does not commence making any decisions until all submissions have been received and carefully considered.

## What are the key stages in a review and what role do stakeholders play in each stage?

Before reaching its decisions and making final recommendations, IPART undertakes an extensive review and public consultation process that typically consists of six key stages (Figure 1). Some of these stages may be omitted for less complex or quick reviews. The following sections describe these key stages and outline the opportunity for stakeholder input at various stages.

Figure 1 Key stages in IPART's review process



For each review, a timetable sets out approximately when each stage will occur. The timetable is published on the Tribunal's website.

## 1. Scope of investigation

IPART's roles and responsibilities when conducting a review are conferred by a range of legislation, rules, codes and access regimes. These include, but are not limited to, the *Independent Pricing and Regulatory Tribunal Act 1992*, the *Gas Supply Act 1996*, the *Electricity Supply Act 1995*, the *National Electricity (NSW) Law 1997* and the *Transport Administration Act 1996*. Further information on the legislation, rules, codes and/or access regimes affecting particular reviews, as well as IPART's licensing and greenhouse gas functions is available at [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au).

When providing independent advice to Government, IPART is typically governed by investigation-specific terms of reference. The terms of reference outline the broad purpose of the investigation and list the specific matters that the Tribunal must address.

Depending on the type of review, IPART either makes recommendations or determinations. Recommendations are made by IPART to the relevant Portfolio Minister who then has the final decision making power. Determinations are made by IPART under powers conferred by industry-specific legislation and are binding on that industry.

IPART reports to a range of Ministers, depending on the industry under review. For example, a review of a water licence would be submitted to the Minister for Water and a review of bus fares would be reported to the Minister for Transport.

The *Independent Pricing and Regulatory Tribunal Act* stipulates that the content of IPART determinations and recommendations is not subject to the control or direction of any government Minister. This provision ensures that IPART reaches its decisions through objective and transparent processes that are not influenced by political interests.

## 2. Issues Paper

IPART usually releases an issues paper at the beginning of a review or investigation to assist and guide stakeholders in preparing their submissions. For regular pricing reviews, IPART also requests the agencies concerned to make submissions on their pricing proposals by an advertised due date. Depending on the nature of the review, IPART generally makes these proposals available on its website before the due date for public submissions to allow other stakeholders to consider them in preparing their own submissions.

An Issues Paper typically contains the following information:

- ▼ Background to the review that also outlines the powers under which IPART is undertaking the investigation.
- ▼ Description of IPART's interpretation of the Terms of Reference or relevant legislation.
- ▼ Description of the industry context in which the review is taking place.
- ▼ Discussion of the key issues for the review and specific questions IPART would like stakeholders to address in their submissions.
- ▼ Timetable for the investigation including information on proposed stakeholder hearings and submissions where relevant.
- ▼ Contact details for at least one member of the IPART secretariat working on the review who can be contacted for further information.

IPART depends on the provision of reliable, robust information from its stakeholders and seeks comments from interested parties to inform its decision-making. Each section or chapter of an Issues Paper will generally contain a list of items on which the Tribunal is seeking comment. While there is no standard format for preparation of submissions, stakeholders should use these items to structure their submissions, including references to item numbers included in the Issues Paper.

Stakeholders may provide submissions on topics other than those presented in the issues paper but should limit these to matters within the terms of reference for the review. The Tribunal can only make recommendations and determinations for issues where it has a mandate.

Stakeholders should provide submissions in a timely manner. Review timetables are developed to ensure that IPART has the necessary time to consider the issues involved in making its findings and recommendations and it is therefore imperative that stakeholders comply with the specified deadlines. For its part, IPART will try to ensure that stakeholders have adequate time to make their submissions.

IPART places public submissions on its website. If you want your submission, or any part of it, to be treated as confidential, please indicate this clearly. IPART may include in its publications a list of submissions received during the course of a particular review or inquiry. It may also refer to submissions in the text of its publications. If you do not want your submission or any part of it to be used in any one of these ways, please indicate this clearly.

### **3. Consultant reports**

IPART considers a range of issues when reaching its decisions and recommendations. Often these include issues such as the efficient levels of operating and capital expenditure of regulated businesses and the supply and demand for products under consideration. To assist in making its decisions, IPART may engage independent consultants to review and make expert recommendations on specific aspects of the review. These consultants are selected on the basis of their expertise in the relevant industry and in providing services of a similar nature.

The consultant's findings may be made available to other stakeholders through the release of a public report. Stakeholders are encouraged to make submissions to IPART on any matters presented in these reports.

### **4. Stakeholder forums, workshops and hearings**

Following the receipt of submissions from stakeholders, IPART may conduct further public consultation. This consultation helps to ensure IPART is aware of the range of viewpoints on the issues being considered. It may be in the form of public hearings, seminars and workshops or one-on-one meetings. IPART will generally advertise any public forum that it holds and may invite particular stakeholders to appear and provide input to the forum. Many public forums are transcribed. Transcripts are made available on IPART's website, usually a few days after the date of the public forum.

The IPART secretariat liaises extensively with other Government agencies, businesses, consumer, welfare, and private organisations, special interest groups, and individuals.

### **5. Draft report**

Depending on the timeframe and scope of a review, IPART may release draft findings and recommendations. These are typically accompanied by a draft report outlining the key issues IPART has considered and how they impacted on its findings and recommendations. Stakeholders are encouraged to make submissions on IPART's draft findings and recommendations to assist IPART in making its final recommendations. IPART may also conduct further stakeholder forums prior to the release of its final report and will seek involvement from interested stakeholders.

### **6. Final report**

After considering all of the information provided to it during the review process, IPART will release its final recommendations and/or findings. As discussed above, recommendations made by IPART are not binding and are made to the referring Portfolio Minister who then has the final decision making power. Determinations are made by IPART under powers conferred by industry specific legislation and are binding on that industry. However, for determinations under the IPART Act, the relevant Minister can set a price below the one determined by the Tribunal, but only if he or she obtains the approval of the Treasurer.

## How is commercially sensitive or confidential information treated?

Stakeholder submissions may contain information that the stakeholder believes should not be publicly released, in which case the Tribunal is able to treat the submission as confidential (see above).

From time to time, businesses and agencies affected by the Tribunal's recommendations and determinations may provide additional commercially sensitive information so that the Tribunal can better understand the nature of the issue and the effect of a recommendation or determination.

All stakeholders can be confident that all data provided will be securely stored. Where appropriate, the dissemination of this data would be limited to relevant staff of the secretariat and, if necessary, the Tribunal's consultant. The Tribunal will require the consultant to enter into a confidentiality agreement to ensure that the confidential information is not disclosed.

If you want your submission, or any part of it, to be treated as confidential, please indicate this clearly in writing, at the time of making the submission. The Tribunal's publications may include a list of submissions received during a review and/or refer to submissions in their text. If you do not want your submission to be referred to in the Tribunal's publications, please make that clear.

A request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act* and section 22A of the *Independent Pricing and Regulatory Tribunal Act*.

All submissions will be treated in accordance with the *Privacy and Person Information Act 1998*. Any person information you give us will not be used for another purpose. The making of a submission without an express request for privacy is deemed to constitute consent to publish a submission and details of the person and/or organisation making the submission.

## Where can you obtain further information?

The IPART website (<http://www.ipart.nsw.gov.au>) contains specific sections for current and completed reviews. These sections contain all information relevant to stakeholders including issues papers, consultant reports, draft reports and final reports.

Alternatively you can contact IPART on (02) 9290 8400 and ask to speak a member of the IPART secretariat working on the relevant review.