



Gladys Berejiklian MP
Premier of New South Wales

Ref: A2746182

Dr Peter Boxall AO
Chair
Independent Pricing and Regulatory Tribunal
PO Box K35, Haymarket Post Shop
SYDNEY NSW 1240

Dear Dr Boxall,

I am writing to request that the Independent Pricing and Regulatory Tribunal (the Tribunal) undertake a review of rental arrangements for communication towers on Crown lands.

Please find enclosed Terms of Reference, under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992*, for the Tribunal to perform this service.

Yours faithfully,

Gladys Berejiklian MP
Premier

CC: The Hon. Paul Toole MP, Minister for Lands and Forestry

**TERMS OF REFERENCE
REVIEW OF RENTAL ARRANGEMENTS FOR COMMUNICATION
TOWERS ON CROWN LANDS**

I, Gladys Berejiklian, Premier, approve the provision of services by the Independent Pricing and Regulatory Tribunal (the Tribunal) under section 9 of the *Independent Pricing and Regulatory Tribunal Act 1992* to the Department of Industry - Division of Lands and Water, the Office of Environment and Heritage and Forestry Corporation NSW in accordance with these 'terms of reference'.

The services to be provided by the Tribunal are a review of the rental arrangements for communication towers on Crown Lands.

In particular, the Tribunal is to advise on a fee schedule that reflects fair, market-based commercial returns, having regard to:

- recent market rentals agreed for similar purposes and sites;
- relevant land valuations;
- the framework that IPART established in the 2013 review; and
- requirements that the land management agency must take into account under relevant legislation (which may include, for example, principles of the *Crown Lands Management Act 2016*, *National Parks and Wildlife Act 1974* and *Forestry Act 2012*).

The fee schedule is to cover rental arrangements for emerging technology for communications purposes. For the avoidance of doubt, the fee schedule may provide for rebates.

In providing these services, the Tribunal is to consider:

- the policy objective of the New South Wales Government to achieve fair market-based commercial returns on publicly owned land occupied for the purposes of telecommunications, data transmission and broadcasting;
- the Government's preference for a fee schedule that is as simple, transparent, and cost reflective as practicable;
- the costs and benefits for Government and stakeholders to implement recommendations;
- whether a broader consideration of commercial rents would produce lower or higher rental rates than those set out in the Tribunal's recommended fee schedule and, if so, the context;
- clause 44 of Schedule 3 of the *Telecommunications Act 1997* (Cth); and
- any other relevant matters.

The Tribunal is to consult with key stakeholders including agencies responsible for the management of Crown Land sites and key owners of communications infrastructure that occupy Crown land sites.

The Tribunal is requested to present a final report to the Minister for Lands and Forestry and the Minister for the Environment within ten months of receiving this terms of reference with a view to a revised fee schedule being applied by land management agencies from July 2020.


The Hon Gladys Berejiklian MP
Premier

Dated at Sydney 6 Nov 2018