

The Hon Prue Car MP
Deputy Premier of New South Wales
Minister for Education and Early Learning
Minister for Western Sydney



Ref: RML23/2235

Ms Carmel Donnelly PSM
Chair
IPART NSW
PO Box K35
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Email: [REDACTED]

Dear Ms Donnelly

Thank you for your correspondence of 29 June 2023, regarding the independent market monitoring report to be prepared in accordance with the *Childcare and Economic Opportunity Fund Act 2022* (CEOF Act).

Under section 5 of the CEOF Act, IPART has been commissioned to undertake a review into the early childhood education and care sector and prepare a report setting out the findings of the review.

As the commissioned person for the first review, IPART is to:

- undertake a review in accordance with section 5(1) of the CEOF Act
- report on the review in accordance with section 5(2) of the CEOF Act, and
- provide the report to the Minister for Education and Early Learning by December 2023.

Appendix A to this letter sets out my expectations on timeline, consultation, reporting and scope of your review.

Sincerely

A handwritten signature in black ink, appearing to be "Prue Car", written over a white background.

Prue Car MP
Deputy Premier of New South Wales
Minister for Education and Early Learning
Minister for Western Sydney

23 August 2023

Childcare and Economic Opportunity Fund: Independent Market Monitoring Review 2023

Minister’s Expectations

The Minister’s Expectations is developed to articulate the expectations for the Independent Market Monitoring Review by the Commissioned person to meet the principal objective of the *Childcare and Economic Opportunity Fund Act*. This document also outlines the legislative requirements, information that the review should consider, proposed timeframe, resources, consultation and reporting requirements.

<p>Background</p>	<p><u>Overview</u></p> <p>An independent market monitoring review (the Review) of the early childhood education and care sector (‘ECEC’ or ‘childcare’) is a requirement under Part 2, section 5 of the <i>Childcare and Economic Opportunity Fund Act 2022</i> (the Act).</p> <p>The Fund, together with Commonwealth Government reforms, are estimated to support the delivery of approximately an additional 47,000 ongoing and affordable childcare places in NSW.</p> <p>The Minister for Education and Early Learning (Minister) must commission a person (the commissioned person) to undertake a review into the childcare sector market, including by reviewing areas where the commissioned person considers there are childcare supply shortages, or there are higher barriers to parents or carers participating in work because of the affordability or accessibility, or both, of childcare. The commissioned person is also to review the state of the childcare sector, including workforce, pay and conditions, and quality standards in the childcare sector.</p> <p><u>Appointment:</u></p> <p>The Minister appoints the commissioned person. The Minister can change the commissioned person between review cycles.</p> <p><u>Capability:</u></p> <p>The commissioned person must be independent from the Board and have the expertise prescribed by the Regulations.</p> <p><u>Public release:</u></p> <p>After undertaking the Review, the commissioned person must prepare a report setting out the findings of the Review, including the matters set out in subsection (1)(a) and (b) of the Act, and give the report to the Minister (Report). The Report must be tabled in each House of Parliament with the annual report tabled under section 22 of the Act.</p> <p><u>Frequency:</u></p> <p>The Review and Report must be prepared every 2 years or other period prescribed by regulations.</p>
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<p>Legislative requirement</p>	<p>Section 5(1) of the Act provides that the Review will examine the NSW childcare sector market, including:</p> <p>(a) Areas where the commissioned person considers—</p> <ul style="list-style-type: none"> i) there are childcare supply shortages, or ii) there are higher barriers to parents or carers participating in work because of the affordability or accessibility, or both, of childcare, and <p>(b) The state of the childcare sector, including:</p> <ul style="list-style-type: none"> i) workforce, ii) pay and conditions, iii) quality standards in the childcare sector. <p>The NSW childcare sector market includes education and care for children from birth to 12 years old across all ECEC service types (community and mobile preschool, family day care, long day care, NSW Department of Education preschool, occasional care, and out of school hours care). Playgroups are excluded.</p> <p>Out of scope for 2023 Report</p> <p>In accordance with section 6(1) of the Act, future reports (for financial year 2026-27 onwards) must include an estimate of the amount required to achieve the objective of the Act and otherwise fund the Board for at least the next 2 financial years after the date on which the report is given to the Minister.</p> <p>In accordance with section 6(3) of the Act, an estimated amount is not required for the 2023 Report because an amount is appropriated under section 18 of the Act.</p>
<p>Objectives</p>	<p>The Review is intended to provide an examination and analysis of the NSW early childhood education and care sector, with the goal of understanding the current state of the market and identifying any trends or issues that may impact the market's future performance.</p> <p>The main goal of this market review is to provide insights and information into the NSW childcare sector market that can be used to inform strategic decisions and actions, including:</p> <ul style="list-style-type: none"> 1. areas where there are childcare supply shortages (s 5(1)(a)(i) of the Act), including current and planned childcare services, supply of childcare places, demand for childcare; 2. areas where there are higher barriers to parents and carers participating in work because of the affordability or accessibility, or both, of childcare (s 5(1)(a)(ii) of the Act), including: <ul style="list-style-type: none"> • the impact the cost of childcare has on preventing children from accessing early childhood education

	<ul style="list-style-type: none"> • the impact the cost of childcare has on discouraging persons from participating or increasing participation in work. • The percentage of marginal income spent by families on childcare. <ol style="list-style-type: none"> 3. availability of qualified workforce to meet the levels of need across NSW (s 5(1)(b)(i) of the Act) 4. the state of pay and conditions in the sector (s 5(1)(b)(ii) of the Act); and 5. the distribution of the quality provision of ECEC services (s 5(1)(b)(iii) of the Act) across service types and geographic areas. <p>The Review should consider information on:</p> <ol style="list-style-type: none"> 1. market trends, such as current parents and carers (consumer) behaviours, technological advances, or recent shifts in market structure 2. workforce profile across metropolitan, regional, rural and remote areas, demographics and provider types 3. market size and growth potential, with particular consideration of barriers to access related to growth in location or service size 4. identifying different market segments, such as metropolitan, regional, rural and remote areas, demographic groups, including priority cohorts (e.g., Aboriginal communities or families with children with disability), or product categories related to the differences in provider types to improve consumer choice 5. fees and out-of-pocket costs of childcare services for parents and carers, including how often ad hoc fees are passed on and how often fee increases occur, and workforce disincentive rates 6. cost of providing the service and cost driver breakdowns 7. market competition, including information on the competitive landscape of the market, such as market segmentation analysis 8. identifying opportunities for strategic partnerships, by providing information on the major childcare sector stakeholders 9. key, legal, economic, planning or other barriers to the provision of childcare services.
<p>Commissioned person powers</p>	<p>As per section 7 of the Act, the commissioned person may require another person to give information and answer questions. Specifically:</p> <p>(1) A commissioned person may require another person to—</p> <p style="padding-left: 40px;">(a) give the commissioned person information the commissioned person reasonably requires for the preparation of a market monitoring report (relevant information), or</p>

	<p>(b) answer questions in relation to relevant information if the commissioned person believes on reasonable grounds that the other person has knowledge of the relevant information.</p> <p>(2) A commissioned person may require a person to give information or to answer questions under section 7 only if the commissioned person—</p> <ul style="list-style-type: none">(a) has made reasonable efforts to obtain the information without using this section, including by seeking information from the Department of Education and other government agencies of NSW or the Commonwealth, and(b) has been unable to obtain the information. <p>(3) The requirement under subsection (1)(a) must be in a written notice given to the other person and must specify the following—</p> <ul style="list-style-type: none">(a) the information that must be given,(b) the form in which the information must be given,(c) the time within which the information must be given. <p>(4) The commissioned person may, by written notice, require the other person to attend at a specified place and time to answer questions under subsection (1)(b) if—</p> <ul style="list-style-type: none">(a) attendance at the place is reasonably required for the questions to be properly put and answered, and(b) the place and time is a reasonable place and time— (i) nominated by the other person, or (ii) if a reasonable place and time is not nominated by the other person— nominated by the commissioned person. <p>(5) Relevant information may include information about the following—</p> <ul style="list-style-type: none">(a) current and planned childcare services,(b) costs of childcare services, including the cost of providing childcare services,(c) demand for childcare services,(d) legal, economic or other barriers to the provision of childcare services,(e) information prescribed by the regulations. <p>(6) Persons who may be required to give information or to answer questions under section 7 include the following—</p> <ul style="list-style-type: none">(a) persons who own, control or operate childcare services,(b) persons who use childcare services,(c) persons who work in the childcare sector,(d) persons who have expert knowledge about the childcare sector,(e) persons prescribed by the regulations.
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<p>Timeline</p>	<p>Proposed Review milestones leading up to 30 December 2023:</p> <ul style="list-style-type: none"> • Commissioned person to conduct the Review: March 2023 to end December 2023 (10 months) • Commissioned person to provide final Report to the Minister for Education and Early Learning: December 2023 • Minister for Education and Early Learning to table the Report in Parliament (alongside CEO Fund Annual report): December 2024.
<p>Resources</p>	<p>Payment of \$300,000 will be made to the commissioned person following completion of the Review.</p>
<p>Reporting</p>	<p>The Commissioned person will be required to provide the Report to the Minister for Education and Early Learning. The Report will include information regarding the approach, methodology, and findings of the Review.</p> <p>The Commissioned person, where legally permitted, will provide the Minister for Education and Early Learning with supporting data that was used to inform the Review. The Commissioned person will seek information from stakeholders on a basis that permits data sharing with the Minister.</p> <ul style="list-style-type: none"> • Note: The Act gives the commissioned person powers to compel relevant information and answer questions from any person (including people who work in the sector). This information may be disclosed in the Report, which will be publicly released.
<p>Reviewer qualifications</p>	<p>The commissioned person must—</p> <ul style="list-style-type: none"> (a) be independent from the Board, and (b) have the expertise prescribed by the regulations.
<p>Consultation</p>	<p>The commissioned person is required to consult with families and communities (including Aboriginal and Torres Strait Islander communities), NSW ECEC providers and sector, NSW Government agencies, NSW local government, the Australian Government Department of Education, and other interested parties.</p>