



Compliance and Enforcement Policy

Consultation DRAFT

October 2025

IPART >>

Acknowledgment of Country

IPART acknowledges the Traditional Owners of the lands where we live and work. Our office is located on Gadigal land and our work touches on Aboriginal lands and waterways across NSW.

We pay respect to their Elders both past and present, and recognise Aboriginal people's unique and continuing cultural connections, rights and relationships to land, water and Country.



Image taken on Worimi Country (Myall Lakes)

The Independent Pricing and Regulatory Tribunal

IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from [IPART's website](#).

Tribunal Members

The Tribunal members for this review are:

Carmel Donnelly PSM, Chair
Dr Darryl Biggar
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1 Our compliance and enforcement role

1.1 IPART is an independent regulator in NSW

The Independent Pricing and Regulatory Tribunal regulates key markets and NSW Government services to ensure effective social, environmental and economic outcomes.

We undertake investigations and make reports to the NSW Government on a range of issues set out in legislation, and on issues the Government refers to us. However, our determinations and recommendations are not subject to the control or direction of the NSW Government.

We are the independent pricing regulator for water, public transport, and local government. We also act as the licence administrator of electricity, gas, major public water utilities and Water Industry Competition Act licensees, the scheme administrator and regulator for the Energy Security Safeguard Schemes, and as the Insurance Monitor under the Emergency Services Levy Insurance Monitor Act.

We regulate entities that operate in competitive markets and those that are monopolies. In some cases, we have a role in safety and reliability or public health regulation, in others protection of customers or consumers, and in others protection of the environment.

In our approach to holding regulated entities to account we aim to make the best use of our own resources, and at the same time avoid imposing excessive costs on regulated entities, which would increase prices for customers and consumers.

1.2 This policy applies across our compliance and enforcement functions

This IPART Compliance and Enforcement Policy applies to all of our regulatory functions where we have a compliance and/or enforcement role, including:

- Energy network utility regulation
- Public water utility prices and licences
- Water Industry Competition Act licensee prices and licences
- Energy Security Safeguard Schemes
- Rail access
- Insurance Monitor

1.3 This policy interacts with other IPART documents

The IPART Compliance and Enforcement Policy outlines our general compliance and enforcement approach for the entities we regulate, other stakeholders and the community.

This policy should also be read in conjunction with any IPART guidance, processes and procedures that apply to specific industries and regulated entities with regulatory requirements and licence obligations.

We will continue to update and improve our existing processes, procedures and guidelines related to compliance and enforcement. As we review our documents, we will consult with stakeholders.

1.4 We exchange information with other regulators

We cooperate with government and non-government organisations to share information, where appropriate. This exchange of information helps both these organisations and IPART to coordinate activities, avoid overlap and ensure that regulation is efficient.

Where we identify that we can cooperate with another organisation, we may enter a memorandum of understanding (MOU) or other arrangement to facilitate cooperation. MOUs clarify the roles and coordinate the activities of IPART and the relevant organisation and facilitate the exchange of information.

1.5 Policy review

We may review and amend this Policy from time to time.

2 Our compliance and enforcement principles

We base the principles that underpin our approach to compliance and enforcement on current best practice policies for regulation. Our compliance and enforcement principles are:

- We will focus on outcomes
- We will prioritise according to risk
- We will be fair and transparent.

We also align our approach with the NSW Government's approach to regulation outlined in [Guidance for regulators to implement outcomes and risk-based regulation](#) and IPART's Values.

IPART's Values are:

- Integrity and Courage
- Respect and Inclusion
- Curiosity and Openness
- Making a Difference

2.1 We will focus on outcomes

When developing and implementing compliance and enforcement strategies we will:

- follow our legislative mandate with a focus on the objectives the legislation aims to achieve and outcomes
- follow the other legal instruments under which we regulate to meet or support their objectives
- consider our core purpose for the regulated entities and for the beneficiaries of our regulation, and
- assess the options available to us

2.2 We will prioritise according to risk

We will allocate our resources to deliver the greatest benefit, or to focus on the biggest risks to the efficient and effective delivery of services, to safety, to public health, to the environment, to social impacts and to consumers.

2.3 We will be fair and transparent

We will engage with stakeholders to ensure that our compliance and enforcement strategies are relevant and targeted. We will seek information from regulated entities before making key decisions about compliance or enforcement actions and explain our decisions once we make them.

All IPART staff are bound by the NSW Government's Code of Ethics and Conduct and IPART's Code of Ethics and Conduct. This includes requirements to act with professionalism, honesty, consistency and impartiality.

IPART is also responsible for ensuring the safety and well-being of its employees and we expect that regulated entities dealing with IPART staff do so in a way that is professional and respectful.

3 Our risk-based regulatory model

3.1 We will apply a risk-based regulatory model to compliance and enforcement

We apply a risk-based regulatory model which allows us to:

- focus on allocating resources to areas of higher risk
- increase our efficiency
- tailor our enforcement response.

This allows us to make the best use of our resources to minimise excessive costs to regulated entities and avoid broader costs being imposed on the community.

We base our risk-based approach on evaluating the risk that each part of our regulatory function aims to reduce. We evaluate the risk by considering the likelihood of harm occurring in the absence of our regulatory controls and the potential consequence of that harm. We then consider how likely it is that a regulated entity will not properly implement a regulatory control.

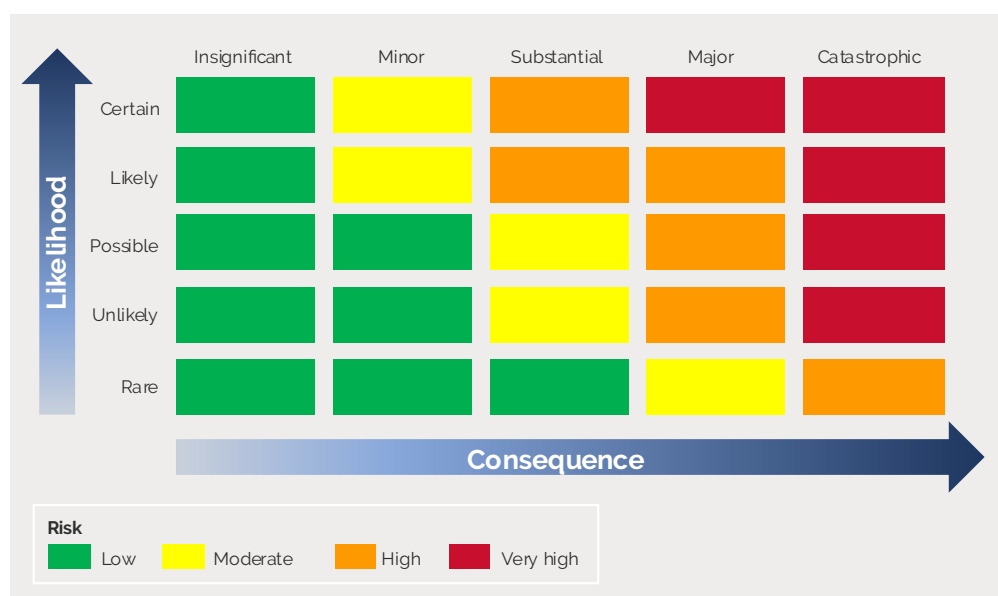
We identify and document historical, current and emerging risks. This allows us to allocate resources in proportion to the risk and complexity of regulated entities and behaviours.

3.2 We assess the risk of harm of an activity

When assessing the overall risk of harm from an activity, we consider both the *likelihood* of a compliance breach occurring and the potential *consequences* of that compliance breach.

This is depicted in the figure below.

Figure 3.1 Risk of harm



3.3 We assess the risk profile of regulated entities

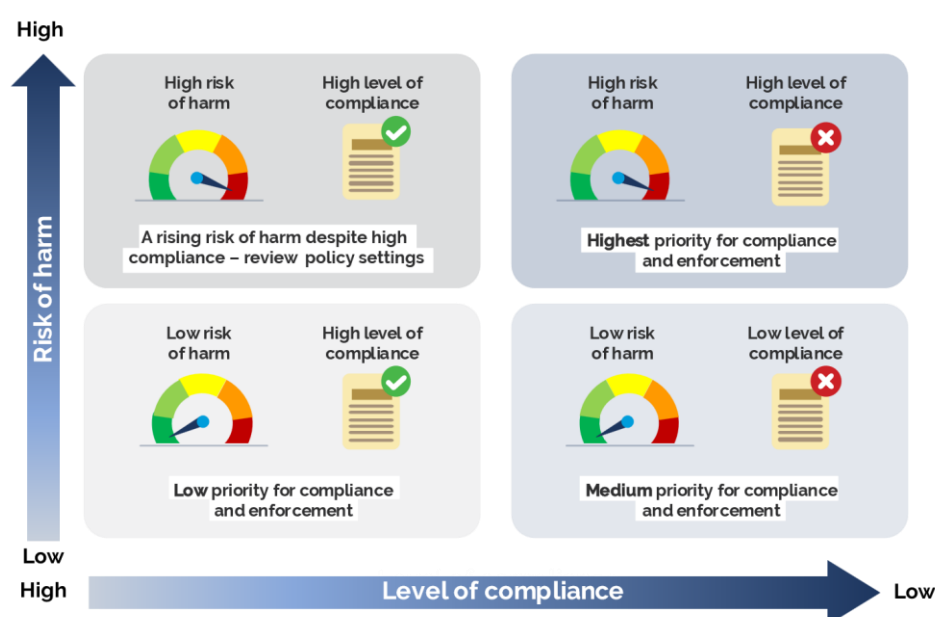
We consider how well a regulated entity is likely to comply with its requirements and control the risk of non-compliance. We may consider the following to evaluate the likely level of compliance:

- Compliance history of the regulated entity
- Incident and risk event numbers and frequency as reported to us by regulated entities
- How comprehensive a regulated entity is in its reporting
- Information that we collect during site visits and inspections
- Results from independent audits
- Stakeholder feedback on the performance of regulated entities
- Complaints or allegations made to us or other relevant bodies about regulated entities
- Data and other information about regulated entities provided by other regulators
- Data and other information about regulated entities that is publicly available
- The experience of the regulated entity in the market
- The regulatory positioning, attitude and level of cooperation of the regulated entity.

3.4 We assess the risk of an activity and the risk profile of an entity together

We consider both the risk of harm and the level of compliance in determining how we target our compliance and enforcement response (see Figure 3.2). Areas where there is a high risk of harm and a low level of compliance will be our highest priority to allocate compliance and enforcement resources.

Figure 3.2 Targeting compliance and enforcement responses



4 How we apply our risk-based model

4.1 Compliance is the responsibility of regulated entities

Compliance is primarily the responsibility of the regulated entities themselves. We employ a range of compliance tools to support regulated entities voluntarily meeting their compliance responsibilities (see 4.2 to 4.4). We consider the risk associated with their activities and the expected level of compliance when deciding which tools to employ and how to employ them.

4.2 We inform, educate and support

We focus our efforts on informing, educating and supporting the regulated entities to comply to avoid non-compliance in the first place. We may also seek to educate customers and the community, so that they are informed and empowered to report concerns to us about potential non-compliance.

We have developed tools and programs to assist regulated entities to understand and comply with their regulatory obligations. These include:

- published reports, guides and manuals
- publication of annual Compliance Priorities
- stakeholder forums and working groups
- audit panels with approved auditors, from which regulated entities can choose to undertake an audit
- auditor training and forums
- safety alerts
- IPART workshops and webinars
- IPART participation on external industry groups.

4.3 We monitor compliance

We monitor compliance and identify non-compliances using several proactive and responsive tools such as:

- periodic reporting by the regulated entity
- exception reporting by the regulated entity
- independent audits
- incident notifications by regulated entities
- considering complaints by affected stakeholders
- intelligence sharing and data analysis
- physical inspections

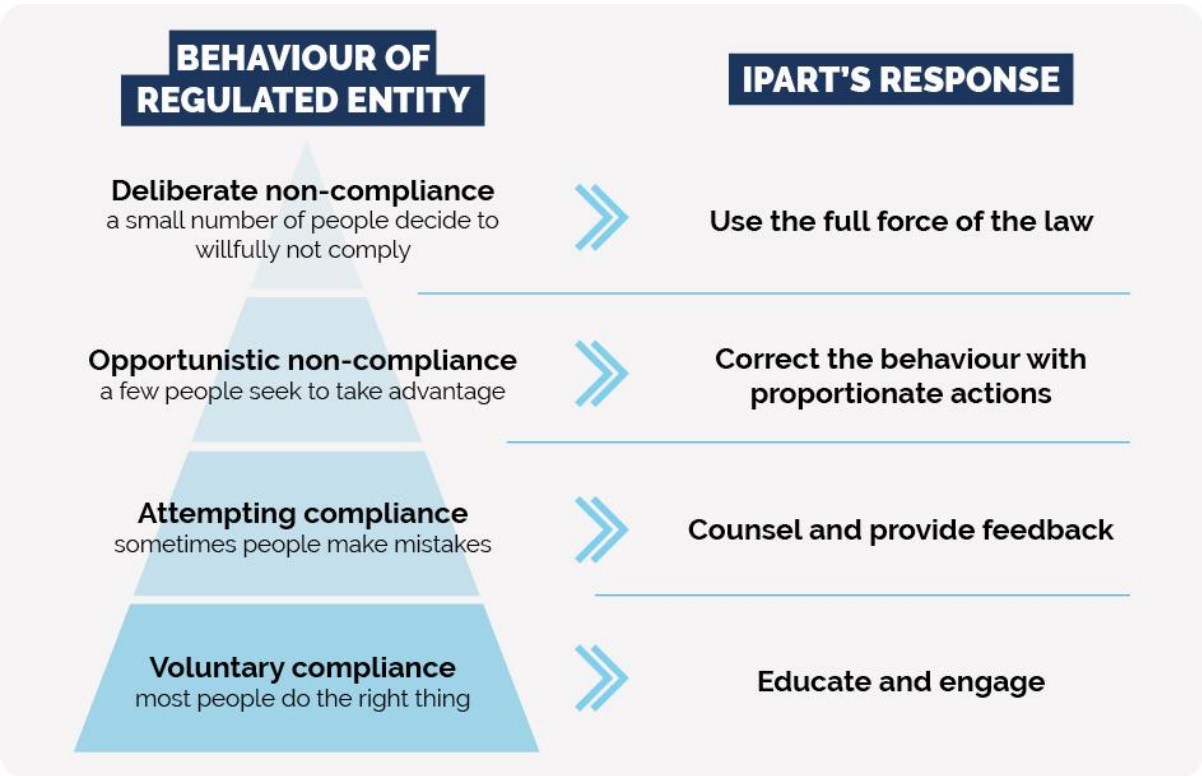
- investigations including using formal information gathering powers.

4.4 We take compliance action

Where we find that a regulated entity has failed to comply with its obligations or is suspected of non-compliance, we will consider a range of enforcement actions. Our enforcement action decision-making framework is discussed in Section 5.

Generally, IPART's response to non-compliance will be commensurate to the type of behaviour a regulated entity has engaged in (see figure 4.1). However, we will consider the specific facts and circumstances to assess what sort of response is appropriate. We may also use a combination of responses to achieve our desired compliance outcome.

Figure 4.1 IPART's escalating and responsive compliance model



5 Our enforcement approach

5.1 We take an escalating approach to enforcement action

Enforcement action refers to action taken in response to a non-compliance with a regulatory requirement, licence requirement or a direction from IPART. Enforcement action may include one or a combination of the following:

- official warnings or cautions (including applying the Attorney General's [Caution Guidelines under the Fines Act 1996](#) or IPART-specific Caution Guidelines where appropriate)
- enforceable undertakings
- requests, directions or orders to remediate non-compliance
- penalty notices
- civil penalty orders
- suspension or cancellation of a licence/authorisation/accreditation
- criminal prosecution or other court proceedings (including applying the [Prosecution Guidelines](#) issued by the NSW Office of the Director of Public Prosecutions or other relevant guidance)

Generally, we will apply an escalating approach to considering which enforcement tool or combination of tools to apply in each scenario. An "escalating approach" means that, generally, enforcement actions become progressively more severe in response to the level of non-compliance including where there is continuing or repeated non-compliance. At the same time, we consider the facts and circumstances of individual matters before deciding on the most appropriate regulatory action. This might mean in some instances more serious action is taken in response to single breach in proportion to the non-compliance.

Legislation we administer may prescribe specific matters to be considered in making enforcement decisions and we would have due regard to any such provisions as appropriate.

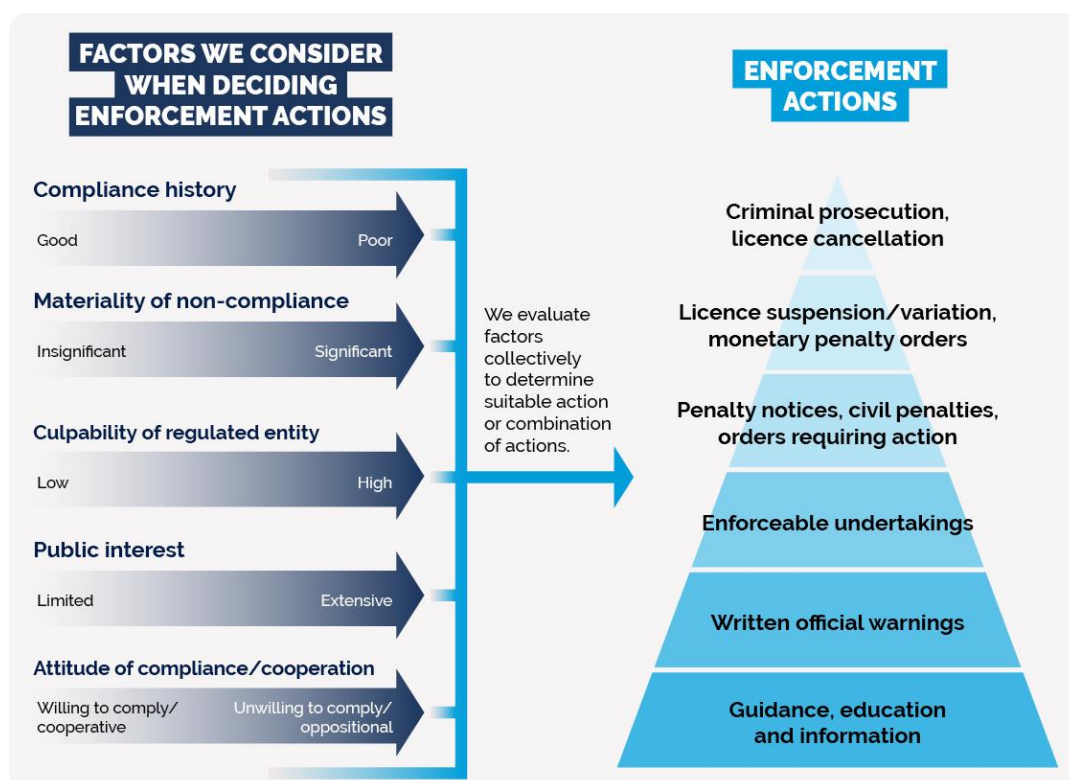
5.2 How we make enforcement decisions

Where we are satisfied that a non-compliance has occurred (based on sufficient evidence), we apply our risk-based approach and will generally have regard to the following factors when deciding whether to take enforcement action and what action to take:

- our regulatory objectives
- the compliance history of the regulated entity
- the materiality of the non-compliance – relevant matters include the consequences or harm of the non-compliance
- the conduct/culpability of the regulated entity
- whether it is in the public interest
- whether action has been taken by the regulated entity to remedy the breach

- the level of cooperation of the regulated entity – we are likely to consider fulsome cooperation favourably when weighing up enforcement options
- whether action has already been taken by the Minister (or other entity) in respect to the non-compliance
- any financial benefit gained because of the non-compliance, and
- any other relevant considerations.

Figure 5.1 Consideration of enforcement action



5.3 We afford procedural fairness

Generally, we will provide written notice of the proposed enforcement action to the regulated entity and provide it an opportunity to give submissions on the proposed action. We have regard to those submissions in deciding whether to take enforcement action and what enforcement action to take.

6 Public comment on compliance and enforcement decisions

6.1 We may publish decisions and other information

Where we take enforcement action against a regulated entity, we may publish copies of those enforcement decisions, summaries of decisions or other guidance material. For instance, where we issue an order to a regulated entity to pay a monetary penalty, we may publish a copy of the order on our website.

We may also publish information on other compliance findings including where we have decided not to take formal enforcement action.

In some instances, we will publish information because it is required by legislation and the relevant Minister will table information in Parliament.

6.2 Public information

Informing regulated entities and the public of our activities is important because it:

- explains the circumstances in which we may or may not act
- instils confidence that IPART is performing its regulatory role
- promotes compliance with the law by informing the public and industry about improper practices and the consequences that may result from non-compliance, and
- encourages members of the public or other stakeholders to report concerns about potential non-compliance.

In deciding whether to publish details about compliance findings or an enforcement decision, we will consider the public interest for, and against, publication. Public information on an enforcement decision may take the form of a copy of the reasons for decision, a summary of decision, a register of decisions, reports, newsletters, speeches and comments during industry engagement activities. It may also take the form of a media release (see section 6.3).

Generally, we will provide notice to the regulated entity of our intent to publish details of an enforcement decision. In some cases, we may publish details without prior notice, for example if it was necessary to protect the public from an urgent or continuing harm.

6.3 Media information

We may issue a media release where we decide to take enforcement action. We may also respond to questions from the media about compliance and enforcement action. This helps to:

- promote confidence in the regulation of the industry and a transparent regulatory approach, and

- inform and provide guidance about misconduct, wrongdoing and irresponsible practices to protect both industry integrity and the interests of the community.

When deciding whether to issue a media release or to disclose details of enforcement action in response to media questions, we have regard to the interests of the regulated entity, the public interest and other matters considered relevant.

We will typically provide the regulated entity notice of at least one working day before issuing a media release, except in special circumstances.

We may issue the media release even where a person has a right to appeal or seek administrative review of the decision.

6.4 Circumstances where we may not make public comment

In some cases, it may not be appropriate for IPART to make a public comment on its regulatory activities. For example, we generally won't make public comment on investigations details where it would prejudice or risk the integrity of an ongoing investigation. We balance the public interest benefits of making a public statement against the risk of prejudicing inquiries and the rights of the person who is the subject of inquiries.

Factors that may limit our ability to comment about investigations and regulatory actions include:

- legislative restrictions
- the need to safeguard confidential or sensitive information (such as commercial in confidence information)
- the potential to jeopardise ongoing investigations and regulatory actions through the premature release of information
- privacy legislation and guidelines
- ensuring a person's right to a fair hearing is not prejudiced
- the potential risk of legal proceedings
- the potential risk of affecting a persons' ability to operate and trade
- compliance with a court's orders not to disclose information in certain circumstances or at specified times.

6.5 Updating public information

Where IPART has publicised compliance or enforcement activity it may also update the outcome, including the outcome of any appeal to a Court or administrative review body such as the NSW Civil and Administrative Tribunal. This may occur by an editorial note to website content or a note on an original media release.