



24 April 2013

Mr James Cox
Chief Executive Officer
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB POST OFFICE NSW 1230

Dear Jim

DRAFT ENERGY AND WATER LICENCE COMPLIANCE POLICY

I refer to your letter dated 3 April 2013 seeking comment on the above draft policy. As you are aware the Central Coast Water Corporation (CCWC) will not become a water supply authority and require an operating licence until at least 1 July 2017. Nevertheless we are pleased to provide comment on the draft policy as set out below.

Section 1.1

The last paragraph of Section 1.1 states that "IPART will not investigate or take enforcement action where the relevant Minister has exercised their enforcement powers for the same matter". This could be interpreted to imply that IPART may have some prerogative or licence to take enforcement action (in the event that the relevant Minister doesn't take action) even though IPART may not have the necessary technical expertise.

As it is assumed that the relevant Minister is empowered to have final say on matters relevant to their area of responsibility, a simpler and more pragmatic approach would be for IPART, in the first instance, to refer all enforcement related issues to the relevant Minister and take guidance from the Minister as to future enforcement actions, if any.

Section 2.2

Paragraph 2 contains the comment "A knowing contravention exists where the licensee has knowledge of the relevant facts constituting the contravention of it's operating licence". This should be modified to state that a knowing contravention exists where a licensee has knowingly or deliberately contravened it's operating licence and elected not to report this to either IPART or the relevant Minister.

There may be other situations, however where a licensee, in inadvertently or accidentally contravening a licence, still has "knowledge of the relevant facts" but has self reported to the relevant regulator as soon as possible thereafter. Such situations should not be viewed in the same light as a deliberate contravention of the operating licence.

Section 2.4

Under section 40 of the *Central Coast Water Corporation Act 2006* IPART may impose a monetary penalty on the CCWC. The draft policy should be amended to make clear that IPART will not levy a penalty where a penalty has been levied by another regulator.

In relation to the penalties applicable to the CCWC, we note that the Act states the penalty for the second and subsequent days is \$20,000, and not the \$2,000 per day stated in the draft policy.

We also note that the maximum penalty applicable under the *Central Coast Water Corporation Act 2006* is fifty times that applicable to water authorities much larger than the CCWC. Whilst we understand that this is because the legislation for those authorities is due for review, the difference does represent a significant inequity. We request that the policy be amended to state that the penalties that may be levied by IPART will be capped at the \$10,000 for the first day and \$1,000 for each subsequent day until such time as both the *Sydney Water Act* and the *Hunter Water Act* have been amended.

Please do not hesitate to contact me if you have any questions on the above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Greg Cashin', with a stylized flourish at the end.

Greg Cashin
Acting Senior Manager
Central Coast Water Corporation