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Dear Dr Chant

SUBMISSION TO THE PUBLIC HEALTH ACT 2010 STATUTORY REVIEW DISCUSSION PAPER

Thank-you for the opportunity to provide a submission to NSW Health's Discussion Paper in response to the statutory review of the *Public Health Act 2010* (PH Act).

IPART is responsible for the development and administration of water utility licences under the *Water Industry Competition Act 2006* (WIC Act). We also have licensing and compliance functions for Sydney Water, Hunter Water and Water NSW, under each utility's act¹. This makes us well placed to comment on these aspects of the review.

Duplication of regulation

We consider that it is important that the review simplifies and consolidates existing regulation to remove duplication where appropriate.

We support the proposed changes to the PH Act to include mechanisms to establish an appropriate compliance regime for the development of, compliance with and amendment of Quality Assurance Programs (QAPs), including appropriate enforcement actions. Ongoing compliance and auditing are a significant point of control for the protection of public health. However, these changes, as currently proposed, would result in increased regulatory duplication with IPART's functions.

In order to avoid duplication, we consider that the best solution would be for NSW Health to include, in the PH Act, a specific exemption from the requirements for a QAP, and the compliance and enforcement associated with the QAP, for Sydney Water, Hunter Water and WIC Act licence holders. This would recognise that equivalent requirements already exist in

¹ *Sydney Water Act 1994 Part 5 and Hunter Water Act 1991 Division A1.*

the operating licences for these utilities and is the most transparent and efficient option. This proposal is in contrast to the current process where exemptions are made on a case-by-case basis.

Alternatively, if such an exemption were not included in the PH Act, we would recommend to the Minister for Lands and Water that the duplicative functions are removed from Hunter Water's and Sydney Water's operating licences. Similarly we would recommend to the Minister that the equivalent requirements be removed from the WIC Act.

Increased responsibilities for local government

In relation to the proposal to give local government additional responsibilities for the regulation of private water suppliers, IPART has considered similar matters in recent years. The reviews concluded by IPART in 2016² into reporting and compliance burdens on local government and in 2013³ into local government's compliance and enforcement role, made recommendations about considering the impacts of new or amended regulation on local government. These reviews recommended an assessment of the capacity and capability of local government to administer and implement the proposed responsibilities. This assessment should include the consideration of adequate cost recovery mechanisms. Accordingly, we suggest that NSW Health collaborate with local government in developing this regulatory proposal, and avoid cost-shifting.

If you wish to discuss the comments further please contact Dr Kaye Power on the above details. We look forward to continuing to work closely with the Ministry of Health in the implementation of the WIC Act to ensure the protection of public health.

Yours sincerely



Hugo Harmstorf
Chief Executive Officer

² IPART, *Review of reporting and compliance burdens on Local Government*, Draft Report, January 2016.

³ IPART, *Local government compliance and enforcement*, Draft Report, October 2013. Released 2014.