

# Independent Pricing and Regulatory Tribunal Corporate Governance Statement

## Introduction

The Independent Pricing and Regulatory Tribunal was established under the *Independent Pricing and Regulatory Tribunal Act 1992* ("the Act"). Since inception in 1992 IPART's primary role of pricing regulation has expanded significantly. It now provides an integrated system of economic regulation and licence regulation in NSW that covers pricing for water, transport, local government, electricity and gas industries and licensing of water, electricity and gas.

In addition, IPART administers the Energy Savings scheme and undertakes reviews and investigations into a wide range of economic and policy issues. In this respect we act as a key economic think tank and policy advisor to the NSW Government.

Our core functions are conferred by legislation, Rules and access regimes established by legislation. These functions are to:

- ▼ Set maximum prices for monopoly services provided by government agencies in NSW (including water and public transport).
- ▼ Administer licensing or authorisation of water, electricity and gas businesses, and monitor compliance with licence conditions.
- ▼ Advise the NSW Government or its agencies on issues such as pricing, efficiency, industry structure and competition.
- ▼ Regulate maximum electricity and gas prices that regulated energy retailers can charge to residential and small business customers.
- ▼ Regulate private sector access to water and waste water to encourage competition and re-use.
- ▼ Maintain a local government cost index, determine the maximum percentage increase in local government general revenue (rate peg), determine special rate variations and review Council development contributions plans.
- ▼ Review the regulatory burden in priority industries to reduce red tape.
- ▼ Administer the Energy Savings Scheme and associated Register of energy savings certificates.

- ▼ Register agreements for access to public infrastructure assets and arbitrate disputes about agreements for access to public infrastructure.
- ▼ Investigate complaints about competitive neutrality referred to us by the Government.

## **IPART's Commitment to Corporate Governance**

Recognising that external and internal stakeholders, and the community generally, expect high standards of performance, accountability and ethical behaviour from public institutions, IPART is committed to the implementation and maintenance of best practice corporate governance standards in all aspects of its decision-making and corporate activities.

The following statement sets out IPART's commitment to corporate governance and identifies the processes in place which contribute to the governance framework within which IPART undertakes its responsibilities. This statement will be reviewed regularly to ensure compliance with best practice governance standards and to reflect statutory and organisational changes.

### **1. Tribunal Membership**

Membership of the Independent Pricing and Regulatory Tribunal is set out in the Act (s.6).

The Tribunal comprises three permanent members: a part-time Chairman and two part-time Tribunal Members. The Minister may appoint any number of additional temporary members. The Chairman and Tribunal Members are appointed for terms of up to five years by the Premier on the basis of knowledge and understanding of economics, the interests of consumers and the interests of suppliers of services (including the interests of the Government as a supplier of services) whether the services supplied are monopoly services or not.

The Chief Executive Officer manages the staff of IPART (approximately 140 staff). The position is responsible for the Tribunal's professional output and overall operations, and ensuring that the technical quality of work being done by the Secretariat meets IPART and key stakeholder standards. The position is also accountable for the general conduct and effective, efficient and economical management of IPART's functions and activities. The position also initiates proposals affecting the Tribunal's strategy and decision-making. The Chief Executive Officer attends Tribunal meetings to provide input to the Tribunal's decision making process and to ensure teams have the best possible information to conduct the reviews effectively.

## **2. IPART objectives, functions and powers**

IPART's purpose is to provide independent regulatory decisions and advice to enhance the economic, social and environmental wellbeing of the people and state of NSW.

Our specific purpose varies with different activities and functions we perform across a range of industries. Overall, we strive to achieve the following goals:

- ▼ Ensure consumers pay fair and reasonable prices for regulated services that reflect the efficient costs of supply.
- ▼ Be a key economic and policy think-tank and provide high quality and impartial advice to the NSW Government.
- ▼ Encourage regulated services to increase their economic efficiency and maintain or improve their service performance where there is customer willingness to pay.
- ▼ Promote secure and sustainable energy and water supplies and reliable public transport services.
- ▼ Encourage prudent and efficient investment in water, public transport and local government infrastructure.
- ▼ Encourage environmental sustainability.
- ▼ Deliver best-practice regulation and promote a consistent, predictable regulatory environment.

Specific powers and other obligations of IPART are set out in the Act.

Subject only to the Act or as specified in other legislation, IPART is not subject to the direction or control of the Minister in respect of any determination, report or enquiry.

The Tribunal may, by instrument of delegation, delegate its functions or powers to specified persons, including individual Tribunal Members, Committees and staff.

## **3. IPART's role and responsibilities**

Within the framework of its statutory objectives, functions and powers, IPART is responsible for setting out goals, strategies and initiatives in the Corporate Plan and Strategic Action Plan which are reviewed and published annually by the executive team.

Part-time Tribunal Members may be allocated to particular inquiries or determinations to ensure, appropriate utilisation of skills and thoroughness in decision making.

Tribunal decisions and determinations are published on IPART's web-site.

Subject to the Premier's approval, IPART may provide advice to any government agency or body in areas that are within its field of expertise and relevant to its functions (Section 9 of the Act). The public release of that advice is at the discretion of the requesting body.

The Tribunal does not operate as a board of management, although the Chairman has a high level strategic role in the oversight of the organisation through participation in strategic planning, monitoring of project activity and compliance with corporate governance best practice.

#### **4. Performance Assessment**

All staff participate in a regular performance reviews. The purpose of these reviews is to assess performance and identify areas for improvement. The Chief Executive's performance is reviewed by the Chairman and the Chairman's performance by the Minister, the Premier of NSW.

#### **5. Meetings**

##### **Tribunal**

The Chairman may convene as many Tribunal meetings as are considered necessary to meet IPART's statutory obligations.

In practice, IPART meets weekly (except for the Christmas/New Year break) if there are regulatory matters requiring a decision or determination and convenes additional meetings as required.

##### **Delegated powers**

In addition, The IPART Act allows the Tribunal to delegate its functions to a Committee comprising a Tribunal Member and other persons if required. The Tribunal has delegated certain administrative functions to the CEO. The purpose is to enable the delegate to make decisions on more routine issues. Formal instruments of delegation were approved by the Tribunal.

The terms of the delegation are wide ranging and allow the delegate, for example, to exercise the pricing and industry functions of the Tribunal except the function of making a determination or issuing a report to the Minister. The delegate can exercise the licensing functions of the Tribunal except the imposition of a monetary penalty; making recommendations that can be expected to lead to a monetary penalty; and making recommendations on matters of considerable public interest.

Similarly, the Tribunal has delegated its responsibilities regarding its administration of the Energy Savings Scheme and Local Government functions by written instrument. The Tribunal delegates its functions to Committees comprising a part time Tribunal Member, a member of IPART's executive and an external expert. The Committees meet monthly or as required.

These delegations support the efficient and timely operation of the Tribunal allowing the full Tribunal to focus on the more important or complex issues at its meetings.

### **Core Executive**

The Core Executive (comprising the CEO, Directors, General Managers and Legal Counsel) meets fortnightly to consider matters of an organisational or administrative nature. These meetings provide a forum for risk analysis and strategic discussion before making management decisions which affect the operations of IPART. Formal operational, financial and audit reports are tabled at the meeting. In this respect the Core Executive operates as a management board. The CEO provides the Tribunal with an effective overview of organisational issues and communicates the Tribunal's strategic issues to the Core Executive.

IPART records the agendas, minutes and papers of the Tribunal, delegated Tribunal, delegated Committees and Core Executive meetings.

## **6. Committees**

### **Audit and Risk Management Committee**

The Audit and Risk Management Committee consists of an independent Chair, an independent member, and an IPART Director nominated by the CEO. The CEO, the General Manager Support Services and the Information and Communications Technology Manager attend meetings by invitation. Internal and external auditors and other experts may be invited to attend the meetings to provide direct reports.

The functions of the Committee are to assist the Chief Executive to:

- ▼ Oversee the development and implementation of an integrated risk management framework to assist IPART in meeting its objectives.
- ▼ Establish risk management goals, such as ensuring the agency's business continuity and maintaining essential operations.
- ▼ Review IPART's compliance with its statutory and fiduciary responsibilities relating to its core business, reporting, accounting policies, financial practices and procedures and the internal control systems.
- ▼ Review the effectiveness and efficiency of the compliance and audit functions.
- ▼ Assess the effectiveness of the internal audit function.

### **Information Management and Technology Steering Committee**

The Core Executive has also approved a charter for its role as Information Management and Technology Steering Committee. Additional members of the Committee include the IT Manager and other specialist advisers or auditors as required. The IM&T Steering Committee has been formed to:

- ▼ Apply a whole of organisation approach to the development and management of information and communication technologies for the Tribunal.
- ▼ Align IM&T developments with the Tribunal's strategic business directions and goals.
- ▼ Support the Tribunal's aim of providing independent, fair and balanced decisions.

The IM&T Steering Committee reviews and makes decisions about IM&T initiatives.

## **7. Tribunal's Relationship with Management**

The management of IPART's organisational arm or Secretariat is conducted by the Chief Executive Officer pursuant to functions and powers delegated by the Tribunal and the Premier or bestowed by legislation. IPART maintains a register of each occasion that the CEO exercises his delegation in signing contracts or correspondence on behalf of IPART.

The Chief Executive Officer is supported by an executive team. The role of management is to be responsible for the conduct of IPART's operations, to ensure IPART meets its regulatory obligations and to ensure implementation of IPART's Corporate Plan and Strategic Program.

The Chairman and Core Executive are jointly involved in planning IPART's future activities and strategic direction.

The Tribunal receives regular informal and formal briefings from senior management and staff on regulatory matters from the commencement of a project until such matters are submitted to the Tribunal for a final decision or determination.

## **8. Financial Reporting**

IPART is predominantly funded by Parliamentary appropriations, received in the form of grants from Treasury. IPART also administers funds collected on behalf of the Government for licences and other regulatory activities. IPART is accountable for the collection of these funds but does not retain any of the administered revenue.

All purchasing, contracting and other financial activities comply with the requirements of the *Public Finance and Audit Act 1983*, Treasury Circulars and other government guidelines. IPART engages its own consultants and advisers. IPART's panels of consultants are separate from the NSW Government's contract panels but IPART may also draw on the latter as required.

The Minister has conferred financial delegations on senior executive and non executive staff. All delegates receive training in purchasing procedures and refer to documented policies.

IPART ensures the integrity of its financial dealings through systems of authorisation, reporting and review. Financial reports are provided to the Core Executive on a monthly basis. The Core Executive monitors compliance with internal management and financial control systems. Internal audit conducts audits to ensure the existence of appropriate systems and documentation, compliance with those systems and the effectiveness of controls. IPART is also subject to external audit by the NSW Audit Office under the *Public Finance and Audit Act 1983*.

IPART prepares an Annual Report in accordance with the *Public Finance and Audit Act 1983* and the *Annual Reports (Statutory Bodies) Act 1984* and associated Regulation.

## 9. Stakeholders and Communication

IPART stakeholders are people and organisations with a particular interest in the way the Tribunal operates. The needs and expectations of key stakeholders are critical factors that must be considered. Key stakeholders are:

- ▼ the Government
- ▼ shareholders (including government shareholders)
- ▼ "regulated" enterprises
- ▼ customers of "regulated" enterprises
- ▼ the community
- ▼ interest groups (including industry, environmental and welfare groups)
- ▼ third parties (those seeking access to infrastructure facilities)
- ▼ other jurisdictions.

Transparency is an important element to ensure that the Tribunal's activities are well understood and that all stakeholders can participate as fully as possible in the Tribunal's processes.

Stakeholder involvement is an important part of the Tribunal's processes to ensure that the Tribunal is aware of the range of viewpoints on the issues being considered. To ensure that stakeholders are well informed the Tribunal:

- ▼ advertises all investigations and invites public submissions
- ▼ informs key stakeholders of investigations and seeks submissions
- ▼ holds public hearings, with transcripts available for public inspection
- ▼ arranges public seminars and workshops
- ▼ seeks the views of the public through advertisements and surveys
- ▼ maintains a public register of material placed before it
- ▼ publishes issues and discussion papers and research reports
- ▼ consults extensively with interested organisations and the parties affected by investigations
- ▼ where appropriate, releases interim reports and seeks comments before releasing final reports
- ▼ explains its decisions in published reports
- ▼ maintains an Internet website with comprehensive information about the Tribunal's role, investigation timetables, submissions and reports issued.

In providing advice to the Tribunal, the Secretariat liaises extensively with other Government agencies, businesses, consumer, welfare, and private organisations, special interest groups, and individuals.



As well as receiving a wide range of information from the Government agencies whose monopoly services are subject to review or price determination by the Tribunal, the Secretariat has received substantial input from various Government agencies whose operations or policy areas impinge on the business activities of those agencies.

A number of consultative groups have been formed to improve the Tribunal's awareness of the views of interested parties and to provide forums for discussion developments in regulated markets.

IPART has also entered into Memoranda of Understanding with a number of government, industry and consumer organisations to facilitate consultation and communication.

IPART consultation papers, drafts, decisions and related documents are published on IPART's website. Certain publications are also available in hard copy and are provided on request.

Every two years IPART conducts a survey of stakeholder perceptions, concentrating on processes associated with probity, professionalism, independence, consultation and clarity of reports. The results of the survey are published on IPART's website.

## **10. Ethical and Professional Behaviour**

High standards of professional conduct are essential to maintain public confidence and trust in IPART's integrity and efficiency.

IPART developed a Professional Standards and Behaviour Policy which applies to all staff of the Tribunal, including permanent part time, temporary and contract staff and provides staff with a guide to the Tribunal's expected standards of behaviour.

In general, staff of the Tribunal are expected to carry out their duties with:

- ▼ Honesty
- ▼ Integrity
- ▼ Loyalty to the public interest
- ▼ Timeliness
- ▼ Fairness
- ▼ Effectiveness and efficiency
- ▼ Responsibility
- ▼ Responsiveness
- ▼ Innovation and initiative.

IPART is committed to compliance with the NSW government legislation, policies and procedures in all aspects of decision-making and organisational behaviour. Where appropriate, IPART has developed or modified policies to suit IPART's environment and to accord with its statutory obligations.

IPART is also committed to compliance with legal and regulatory requirements, and to ensuring employees have a full understanding of all obligations they are required to meet. This is achieved through policies, induction and formal training. IPART also maintains a register to identify and manage any potential conflict of interest and staff are annually required to sign a declaration confirming their understanding of and adherence to restrictions in trading with respect to companies impacted by IPART's decisions. The restricted companies list is updated regularly in response to IPART's work program.

A separate pecuniary interests register is maintained for Tribunal members consistent with schedule 2, clause 6 of the Act:

*"If:*

*(a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Tribunal, and*

*(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,*

*the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Tribunal".*

This register records any disclosures made by current Tribunal members and is available on IPART's web site.

A number of policies and systems are in place to ensure the protection and proper use of IPART's resources, including physical assets, intellectual property and the protection of confidential information.

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