

Memorandum of Understanding

between

Independent Pricing and Regulatory Tribunal (IPART)

and

Natural Resources Access Regulator (NRAR)

and

NSW Environment Protection Authority (NSW EPA)

and

NSW Department of Planning and Environment – Water (DPE Water)

and

NSW Health

1 Introduction

- (1) This Memorandum of Understanding (**MOU**) sets out the arrangement between the following parties to establish a Regulators Advisory Panel (**RAP**):
 - (a) the Independent Pricing and Regulatory Tribunal (**IPART**);
 - (b) Natural Resources Access Regulator (**NRAR**)
 - (c) the NSW Department of Planning and Environment - Water (**DPE Water**);
 - (d) the NSW Environment Protection Authority (**NSW EPA**);
 - (e) NSW Health.(each a **Member** of the RAP)
- (2) Together, the Members are responsible for the economic, environmental, and public health regulation of the NSW water sector.

1.2 Purpose

The purpose of the RAP is to promote stronger collaboration between the Members for the benefit of customers and Water Businesses by:

- (1) providing a formal line of communication to discuss policy and clarify the respective roles, functions, and long-term priorities of each regulator;
- (2) identifying any gaps, overlaps, conflicts, or tensions in the regulatory environment and, if possible, identifying solutions;
- (3) aligning regulatory expectations for Water Businesses to establish a consistent regulatory setting;
- (4) promoting transparency in establishing regulatory standards; and
- (5) tracking the progress of Water Businesses in meeting the requirements of the Members.

1.3 Principles

- (1) The Members agree that this MOU:
 - (a) is a voluntary statement of the Members' intentions;
 - (b) is not legally binding; and
 - (c) is not enforceable.
- (2) The Members enter this MOU with the understanding that:
 - (a) the RAP is a forum, not a decision-making body, for the Members to share information and contribute to synchronised regulatory decisions;
 - (b) the RAP cannot make legally binding determinations or other decisions about a Member or Water Business;
 - (c) each Member is an independent regulator and is responsible for making its own regulatory decisions;

- (d) in making its independent decisions, each Member will consider information shared through the RAP only to the extent permitted by law; and
- (e) each Member is committed to communicating openly and working cooperatively to ensure a shared understanding of the overall regulatory framework for Water Businesses.

1.4 Definitions

DPE Water means the NSW Department of Planning and Environment – Water Group.

Guest means an Interested Party invited by the Members to participate in the RAP, subject to the terms of clause 4.3.

Interested Party means a regulator, policy-maker, customer advocacy group, Water Business or other person with a sufficient interest in the regulation of Water Businesses.

IPART means the Independent Pricing and Regulatory Tribunal established under section 5 of the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW).

NRAR means the Natural Resources Access Regulator established under section 4 of the *Natural Resources Access Regulator Act 2017* (NSW).

NSW EPA means the NSW Environment Protection Authority established under section 5 of the *Protection of the Environment Administration Act 1991* (NSW).

NSW Health has the meaning given by section 4 of the *Health Administration Act 1982* (NSW).

Member means any of IPART, DPE Water, NRAR, NSW EPA, NSW Health or any other person who becomes a member under clause 4.1.

MOU means this Memorandum of Understanding.

Privacy Legislation means the *Privacy and Personal Information Protection Act 1998* (NSW) and *Health Records and Information Privacy Act 2002* (NSW).

RAP or **Regulators Advisory Panel** means the panel established by this MOU.

Water Business includes:

- (a) Central Coast Council (in its capacity as a Water Supply Authority);
- (b) Essential Water;
- (c) Hunter Water Corporation;
- (d) Sydney Desalination Plant Pty Ltd;
- (e) Sydney Water Corporation;
- (f) Water Administration Ministerial Corporation (WAMC); and
- (g) Water NSW.

1.5 Interpretation

In this MOU, unless the contrary intention appears:

- (1) a reference to a clause is a reference to a clause of this MOU unless otherwise indicated;
- (2) a reference to a body, whether statutory or not which ceases to exist, or whose powers or functions are transferred to another body, is a reference to the body that replaces it or that substantially succeeds to its powers or functions; and
- (3) a reference to a law or statute includes regulations, rules, codes, and other instruments (including licences) under it and consolidations, amendments, re-enactments, or replacements of them or of the law or statute itself

2 Agency responsibilities

2.1 Independent Pricing and Regulatory Tribunal

IPART is responsible for regulating the licences and prices for several Water Businesses in NSW. IPART protects water customers by setting prices and monitoring the performance of some Water Businesses to ensure customers get safe and reliable services at a fair price.

2.2 Natural Resources Access Regulator

NRAR is an independent water regulator which performs compliance and enforcement functions of water management laws in NSW. It also delivers some functions on behalf of WAMC, which is a regulated Water Business under IPART's regulatory framework.

2.3 NSW Department of Planning and Environment – Water Group

DPE Water is responsible for sustainable and effective water resource management in NSW. It leads development and implementation of water planning and policy activities in NSW to deliver the objects and functions of the *Water Management Act 2000*. DPE Water regulates water sharing by establishing rules in statutory water plans. DPE Water is also subject to regulation. It also delivers some functions on behalf of WAMC, which is a regulated Water Business under IPART's regulatory framework.

2.4 NSW Environment Protection Authority

The NSW EPA is the primary environmental regulator for NSW. It works to minimise water pollution and improve water quality to deliver positive outcomes for human health, the environment, and the economy. It provides guidelines to help other agencies, businesses, and the community to ensure the delivery of sustainable and safe water.

2.5 NSW Health

NSW Health is the public health regulator for the management of the supply of drinking water (and recycled water by IPART licensed Water Businesses) and provides advice on water quality guidelines. It ensures Water Businesses meet the relevant drinking water and recycled water guidelines by providing advice to help Water Businesses appropriately consider and manage public health risks in undertaking their functions.

3 Meetings of the RAP

3.1 Members will meet twice each year

- (1) Members will meet twice each calendar year (or as otherwise agreed) to discuss matters relating to this MOU.
- (2) Members will work collaboratively to agree on a time and location for each meeting.

3.2 Representation at meetings

- (1) Subject to clause 3.4 below, Members will be represented at meetings by the person identified in the table below.

| Member | Role |
|------------|---|
| IPART | At least one member of the Tribunal |
| DPE Water | Deputy Secretary of DPE Water with responsibility for water |
| NRAR | Chief Regulatory Officer |
| NSW EPA | Chief Executive Officer |
| NSW Health | Chief Health Officer and Deputy Secretary, Population and Public Health |

- (2) The roles referred to in clause 3.2(1) include:
 - (a) any person who, from time to time, holds, or is acting in the role; and
 - (b) if the role is varied, renamed or replaced, any person who, from time to time, holds, or is acting in, the varied, renamed or replacement role.

3.3 Chair

- (1) A representative from IPART will preside at meetings of the RAP until 31 December 2024.
- (2) Members will work collaboratively to agree on who will preside at subsequent meetings of the RAP.

3.4 Delegation

- (1) The person representing a Member at a meeting under clause 3.2 may delegate attendance for that meeting to another person.
- (2) A Member will notify IPART if their representative has delegated attendance at a meeting under clause 3.4(1).

3.5 Conflicts of interest

- (1) Members are required to declare to the RAP any potential conflicts of interest. These will be captured in the minutes of the meeting.
- (2) Members will agree on how to manage the potential conflict, which may include the Member withdrawing from discussion on a certain topic.

3.6 IPART will prepare an agenda for each meeting

- (1) At least two weeks before a meeting of the RAP, IPART will invite Members and Guests to propose agenda items.

- (2) IPART will compile and circulate the agenda among the Members and Guests at least one week before a meeting of the RAP.
- (3) IPART will publish the final agenda for each meeting on its website.
- (4) IPART will maintain a forward agenda for future meetings of the RAP.

3.7 IPART will record high-level minutes

- (1) IPART will record high-level minutes of each meeting of the RAP.
- (2) IPART will circulate the minutes among the Members and Guests who attended the meeting for comment.
- (3) IPART will publish the final minutes for each meeting on its website.

4 Membership of the RAP

4.1 Joining the RAP

- (1) Members may agree to invite a person to join the RAP.
- (2) A person may express interest in joining the RAP by emailing the IPART contact in Appendix A.
- (3) IPART will notify other Members about any expression of interest made under clause 4.1(2).
- (4) Members will work collaboratively to consider an expression of interest and decide whether to invite that person to join the RAP.

4.2 Leaving the RAP

- (1) A Member may terminate their membership at any time and for any reason by giving written notice (of not less than 5 days) to the other Members.
- (2) Members will continue to meet following a termination of membership if there are at least three Members.

4.3 Guests

- (1) Members may agree to invite an Interested Party to participate in a meeting of the RAP as a Guest.
- (2) An Interested Party may email the IPART contact at Appendix A to express an interest in attending a meeting of the RAP or submitting an issue for consideration to the RAP.
- (3) A Member may invite a Guest to present to the RAP on a matter of overlapping regulatory interest, with the agreement of all Members.

5 Scope of cooperation

5.1 Long-term planning

Members endeavour, where possible, to:

- (1) encourage better long-term planning to balance costs, manage health risks and optimise environmental outcomes for the community;
- (2) consider how the water sector is acting in, and can improve, the long-term interests of consumers and the community;
- (3) discuss the extent to which Members' regulatory functions affect how Water Businesses can deliver affordable and reliable services at the lowest sustainable cost;
- (4) discuss ways to respond to the challenges of climate change and promote positive environmental outcomes; and
- (5) discuss ways to address gaps and manage tensions between objectives,

5.2 Align regulatory expectations

Members endeavour, where possible, to:

- (1) work together to understand each other's key drivers and motivations to coordinate outcomes in the long-term interests of consumers and the community; and
- (2) consider the impact of regulation on each other's priorities and synchronise decision-making to support efficient decision-making for Water Businesses.

5.3 Monitor Water Businesses

- (1) Members will, within the scope of their regulatory functions and powers, track performance of Water Businesses in meeting their regulatory obligations.
- (2) Members will discuss key developments and draw on the learnings of other Members, other jurisdictions, and regulated sectors.

5.4 Policy discussion

- (1) Members will discuss government policy objectives and any policy or regulatory changes being considered by each regulator.
- (2) Members will strengthen information sharing between policy makers and regulators to promote the long-term interests of customers.

5.5 Information exchange

- (1) Members acknowledge that they are authorised to share government sector data with each other pursuant to section 6 of the *Data Sharing (Government Sector) Act 2015* (NSW), noting that nothing in that section permits a Member to collect, use, disclose, protect, keep, retain or dispose of any government sector data that is health information or personal information otherwise than in accordance with the Privacy Legislation.
- (2) Members agree to comply with the data sharing safeguards set out in Part 3 of the *Data Sharing (Government Sector) Act 2015* (NSW).

- (3) If information provided in accordance with this MOU becomes the subject of a subpoena, notice to produce, request for information under the *Government Information (Public Access) Act 2009* (NSW) or other legal demand for access, the responsible Member will:
 - (a) promptly notify the Member that originally provided the information;
 - (b) seek comment and advice from that Member; and
 - (c) take all reasonable steps to maintain the confidentiality of the information, in accordance with the relevant legal requirements.

6 Management of the MOU

6.1 Commencement date

- (1) This MOU is effective from the date that the last Member signs the MOU.
- (2) IPART will advise the other Members of the date that the last member signs the MOU when it sends the Members a copy of the signed MOU for their records.
- (3) This MOU will be reviewed every five (5) years from the date of signing.
- (4) This MOU will remain in force until such time as IPART leaves the RAP under clause 4.2(1) or there are less than three Members remaining in the RAP.

6.2 Counterparts

- (1) This MOU may be signed in one or more counterparts and all of those counterparts taken together will be taken to constitute the MOU.

6.3 Amendment

- (1) This MOU may be amended by agreement of all Members.
- (2) Members agree to make necessary amendments to this MOU to reflect the inclusion of a new Member or termination of membership.

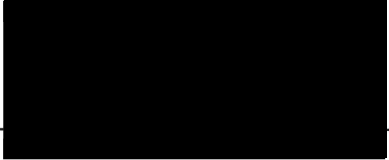
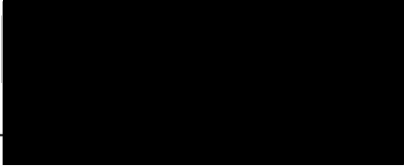
6.4 Administration

- (1) Members may publish the MOU on their website.
- (2) Members shall each bear their own costs of administering the MOU.

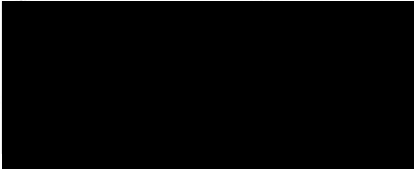
6.5 Contacts

- (1) The contact persons for matters concerning this MOU are the persons nominated by the parties in Appendix A.


Signatures

| | |
|---|--|
| <p>Signed for and on behalf of IPART</p> <p>X </p> <p>Carmel Donnelly, PSM Chair IPART</p> | <p>Signed for and on behalf of DPE Water</p> <p>X _____</p> <p>Amanda Jones Deputy Secretary DPE Water</p> |
| <p>Signed for and on behalf of NRAR</p> <p>X _____</p> <p>Grant Barnes Chief Regulatory Officer NRAR</p> | <p>Signed for and on behalf of the NSW EPA</p> <p>X </p> <p>Mr Stephen Beaman, PSM ED Regulatory Practice Services NSW EPA</p> |
| <p>Signed for and on behalf of NSW Health</p> <p>X _____</p> <p>Dr Kerry Chant AO PSM Chief Health Officer and Deputy Secretary, Population and Public Health NSW Health</p> | |


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| <p>Signed for and on behalf of NSW Health</p> <p>X</p> <hr/> <p>Dr Kerry Chant AO PSM Chief Health Officer and Deputy Secretary, Population and Public Health NSW Health</p> | |

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| <p>Signed for and on behalf of IPART</p> <p>X _____</p> <p>Andrew Nicholls PSM Chief Executive Officer IPART</p> | <p>Signed for and on behalf of DPE Water</p> <p>X _____</p> <p>Amanda Jones Deputy Secretary DPE Water</p> |
| <p>Signed for and on behalf of NRAR</p> <p>X _____</p> <p>Craig Knowles Chair NRAR</p> | <p>Signed for and on behalf of the NSW EPA</p> <p>X _____</p> <p>Tony Chappel Chief Executive Officer NSW EPA</p> |
| <p>Signed for and on behalf of NSW Health</p> <p>X  _____</p> <p>Dr Kerry Chant AO PSM Chief Health Officer and Deputy Secretary, Population and Public Health NSW Health</p> | |

A Contacts

| Member | Name | Position | Phone | Email |
|------------|----------------------|--|----------------|----------------------------------|
| IPART | Scott Chapman | Director, Pricing & Policy | (02) 9290 8449 | scott.chapman@ipart.nsw.gov.au |
| DPE Water | Zahra Anver | A/Director of the Urban Water Strategy and Policy | 0431 021 581 | zahra.anver@planning.nsw.gov.au |
| NRAR | Russell Johnston | Executive Officer | 0431 111 019 | russell.johnston@nrar.nsw.gov.au |
| NSW EPA | Sonya Errington | Director, Environmental Solutions | 0459 859 176 | sonya.errington@epa.nsw.gov.au |
| NSW Health | Dr Paul Byleveld PSM | A/Manager, Environmental Health, Health Protection NSW | 0411 264 070 | paul.byleveld@health.nsw.gov.au |