

The Australian Competition Tribunal  
Water Compliance Team

GPO Box 520  
MELBOURNE VIC 3001

via electronic mail: [IPARTaccreditation@accc.gov.au](mailto:IPARTaccreditation@accc.gov.au)

**25 August 2015**

To whom it may concern,

**Re: IPART application for accreditation under the Water Charge (Infrastructure) Rules - DRAFT DECISION**

The NSW Irrigators' Council (NSWIC) appreciates the opportunity to comment on the Australian Competition and Consumer Commission's (ACCC) draft decision on the Independent Pricing and Regulatory Tribunal (IPART) application for accreditation under the Water Charge (infrastructure) Rules 2012 (WCIR). NSWIC has exerted considerable time and effort to become informed about the WCIR and the ACCC Pricing Principles ensuring that the transferral of regulatory functions from IPART to the ACCC would not lead to negative consequences for irrigators and irrigation infrastructure operators during the last determination of NSW's bulk water charges.

Throughout the last determination, NSWIC has reiterated its support for IPART as a single regulator for bulk water charges in NSW. We have also commented on the possible efficiency savings that could be achieved if IPART was to take over the review of both bulk water charges in the NSW Murray-Darling Basin and the coastal valleys. The Council still believes these efficiency savings are attainable and suggests a transferral of regulatory functions back to IPART may lead to a lower cost burden for Water NSW in their preparation of the pricing proposal. Hence lowering prices for irrigators and irrigation infrastructure operators.

Despite our support for IPART as the single regulator of bulk water charges in NSW, NSWIC also acknowledges the ACCC's role in the most recent State Water Corporation pricing review. The Council congratulates the Commission on undertaking a rigorous and thorough review of State Water's pricing application. The Council is of the view that the WCIR and the ACCC's Pricing Principles have assisted in containing future cost increases and maintaining efficiencies within State Water Corporation. For that reason, NSWIC supports the ACCC's additional accreditation condition which requires IPART to apply the ACCC's Pricing Principle for the review of NSW's bulk water charges.

NSWIC would like to emphasise this point by sharing with the ACCC its recently passed resolution from its July General Meeting:

*"That the NSWIC support the outcomes of the ACCC in reviewing prices for Water NSW's infrastructure services in the Murray-Darling Basin and endorse IPART adopting the ACCC approach to protect customers against the potential for exploitation of the determination process by state governments."*

Due to the ongoing changes in regulators within NSW, NSWIC considers it imperative that there is consistency in the review process and stability in the way the rules are applied to NSW's bulk water operator, Water NSW. Despite NSWIC's concerns about some specific aspects of the WCIR and the ACCC's Pricing Principles<sup>1</sup>, we believe there are equal risks and costs in continuously shifting the rules and principles under which the NSW bulk water charge determination takes place. As such, NSWIC supports the ACCC's additional condition that requires IPART to apply the ACCC's Pricing Principles.

Furthermore, NSWIC also acknowledges that the ACCC's Pricing Principles are a accreditation condition for the Victorian bulk water regulator *Essential Services Commission*. In order to satisfy the National Water Initiative pricing principles, NSWIC supports the application of equal bulk water charge rules and conditions in all Basin jurisdictions.

However, while NSWIC supports consistency in the rules and processes, it must also be recognised that the rules which govern bulk water charges are currently in flux. With the statutory review of the Water Act 2007 (Cth) and the subsequent recommendations made by the Expert Panel, irrigators and irrigation infrastructure operators find themselves in the midst of a review on the WCIR. NSWIC submits that any changes to the WCIR which could affect the review of bulk water charges in NSW must be pre-empted by thorough stakeholder consultation. Consultation must also be applied for any further amendments to the terms, conditions and obligations imposed on IPART as part of the accreditation subject to rule 59(1)(c). As irrigators and irrigation infrastructure operators are directly impacted by changes to the rules and price review procedures, it must be assured that NSWIC and its members are thoroughly consulted.

Request for consultation also applies to the timeframe for accreditation and changes to the accreditation conditions. NSWIC has concerns about the commencement of the IPART accreditation on 1 June 2016. NSWIC is of the view that this will provide IPART with only 12 months to make a new determination which will commence on 1 July 2017. NSWIC would like to point out that 12 months is less time than the ACCC allowed for its own determination. NSWIC seeks assurance from the regulators that this shortened determination timeframe will not impact on stakeholder consultation and engagement.

Furthermore, NSWIC has raised its concerns about the annual price review process and the announcement timeframes for bulk water charges which the Council believes is too late for most irrigation infrastructure operators. As the irrigation infrastructure operators are under legal obligation from the ACCC to inform their customers ahead of the water year of the next year's bulk water charges, NSWIC is concerned that a shortened determination timeframe, could impact on the IIPs ability to fulfil their obligation.

---

<sup>1</sup> Please refer to NSWIC's submission to the ACCC's Draft Determination on State Water's bulk water charges.

NSWIC submits a further clause be considered as part of the accreditation of IPART which would ensure that IPART will announce the annual bulk water charges earlier than the ACCC. Alternatively, it must be ensured that irrigation infrastructure operators are not penalised for the delayed announcement by the regulator.

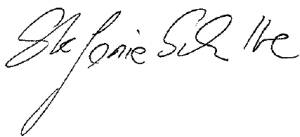
Furthermore, NSWIC would like to seek clarification from the ACCC on the 10 year sunset clause for accreditation. NSWIC is unsure about the rationale for this finite due date as Council believes there is capacity for the ACCC to amend the terms and conditions for accreditation or cancel the accreditation under separate clauses.

Finally, NSWIC supports the ACCC's second condition for accreditation requiring IPART to provide upon request information it obtains or generates as part of its accreditation function. Whilst tangential to this submission, NSWIC would like to point out that irrigators and irrigation infrastructure operators would welcome the same principle (i.e. to provide information upon request) rather than by default as it is currently the case. NSWIC hopes that these issues can and will be addressed as part of the review of the WCIR.

In conclusion, NSWIC would like to emphasise that the protection of bulk water customers from the possibility of monopolistic exploitation must remain the focus of NSW's bulk water charge regulator in future price reviews of Water NSW. The Council looks forward to working with the regulator on the next determination of Water NSW's bulk water charges.

If you have any questions or would like to discuss any aspects of this submission in further detail, please do not hesitate to contact NSWIC's Policy Manager, Stefanie Schulte, on (02) 9251 8466.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Stefanie Schulte', written in a cursive style.

Stefanie Schulte  
Policy Manager

NSW Irrigators' Council