

THE BASIS OF FAIR USER PAYS AND THE SEWER ACCESS CHARGE BY LOCAL COUNCILS IN NSW.

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THE NATIONAL COMPETITION POLICY

In the 1990's the Federal and State governments of Australia formulated and adopted the National Competition Policy, (the NCP). The purpose and role of the NCP was to constitute a foundation for the concept of User Pays, while recognising the need for controls over Authorities having a **Monopoly** over the subject services provided. "**Neutral charging**" was a concept formulated in the NCP and agreed to by all three levels of government in Australia. Neutral charging is the concept enshrined in the NCP to avoid "**abuse of monopoly**", "**perverse pricing**" by Authorities having a monopoly and **to engender trust** of the Authority in the community. See:-

<http://ncp.ncc.gov.au/>

<http://ncp.ncc.gov.au/pages/reform>

<http://ncp.ncc.gov.au/docs/PIAg-002.pdf>

<http://ncp.ncc.gov.au/pages/water>

THE LOCAL GOVERNMENT ACT 1993

An Act to provide for local government in New South Wales. and in particular:-

*"8 - The council's charter (1) A council has the following charter: to raise funds for local purposes by **the fair imposition of rates, charges and fees.**"*

In regard to the Sewer Access Charge by Local Councils in NSW, authority to impose this charge on non-residential property is enshrined in Section 409-6 together with the provision of Guidelines and the basis of compliance :-

*"409 The consolidated fund. (6) The Minister for Energy and Utilities, with the concurrence of the Minister administering this Act: (a) is to cause **guidelines** to be prepared and published in the Gazette relating to the **management of the provision of water supply and sewerage** services by councils, and (b) may, if of the opinion that a council has not substantially complied with the guidelines, direct the council to comply with any particular aspect of the guidelines before making any further deduction under subsection (5)."*

<http://www.legislation.nsw.gov.au/fullhtml/inforce/act+30+1993+CD+0+N#ch.3-sec.8>

http://www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s409.html

NSW Office of Water

<http://www.water.nsw.gov.au/Home/default.aspx>

<http://www.environment.nsw.gov.au/Search/QuickSearch.aspx>

<http://www.water.nsw.gov.au/Urban-water/Country-towns-program/Planning-and-best-practice/default.aspx>

http://www.ipart.nsw.gov.au/Home/Industries/Research/Reviews/Customer_Engagement/Customer_Engagement_on_Prices_for_Monopoly_Services_2011

Sewerage pricing. Best practice sewerage pricing involves a uniform annual sewerage bill for residential customers. For non-residential customers, an appropriate sewer usage charge is required for the estimated volume discharged to the sewerage system, together with an access charge based on the capacity requirements that their loads place on the system relative to residential customers.

The Office of Water has an intensive focus on best practice water supply and sewerage pricing and has continued to assist LWUs to introduce such pricing. Of particular importance has been the abolition of annual water allowances, which lack an incentive for customers to conserve water and lead to higher fixed charges which disadvantage low water users.

All LWUs have abolished their water allowance for potable water supply since July 2007, in compliance with National Competition Policy and the National Water Initiative. 98 per cent of the utilities are now achieving full cost recovery for their water supply and 96 per cent for sewerage, as required by the NSW Best-Practice Management of Water Supply and Sewerage Framework (PDF 136 KB).

BEST PRACTICE MANAGEMENT OF WATER SUPPLY AND SEWERAGE GUIDELINES

The Guidelines, being a statutory document, sets out fairness as one of its provisions as does the Local Government Act itself.

“Foreword

*These Guidelines for Best-Practice Management of Water Supply and Sewerage have been published by the Minister for Water Utilities pursuant to section 409(6) of the Local Government Act 1993. The Minister for Local Government has concurred with these guidelines. The guidelines encourage continuing improvement in performance and identify 6 criteria for best-practice management of water supply and sewerage. They also set out the outcomes local government Local Water Utilities (LWUs) need to achieve in order to be eligible for payment of a dividend from the surplus of their water supply or sewerage businesses. LWUs which achieve the **outcomes required by these guidelines** will have effective and sustainable water supply and sewerage businesses and will have demonstrated best-practice management of these **businesses as well as their compliance with National Competition Policy and the National Water Initiative**. Any local government LWU wishing to pay a dividend from the surplus of its water supply and sewerage businesses or seeking financial assistance under the*

Country Towns Water Supply and Sewerage (CTWS&S) Program must demonstrate its achievement of these outcomes through substantial compliance with these guidelines for each of the 6 criteria.”

“The NSW Government is required to demonstrate compliance with the Australian Government’s National Competition Policy and National Water Initiative. The approach adopted since 1995 is to progressively encourage best-practice management by LWUs to ensure effective, efficient and sustainable water supply and sewerage businesses.”

“To be eligible to make a dividend payment from a surplus, an LWU must: · Demonstrate best-practice management compliance through an **independent compliance audit report**.”

“2.2.2 Pricing (including Developer Charges, Liquid Trade Waste Policy and Approvals)³ Best-practice water supply, sewerage and liquid trade waste pricing requires transparent tariff structures and price levels that: § Recover efficient costs of service provision, including an appropriate return on infrastructure capital § **Provide appropriate signals to customers** about the cost consequences of their service demands, in order to encourage efficient use of resources (both environmental and financial) associated with service provision”

“For some LWUs this cost may be such that all costs be recovered through a usage charge. Where an access charge is required, **the access charge for larger non-residential customers should reflect their capacity requirements.**”

“b) **Sewerage Pricing.** Best-practice sewerage pricing involves a uniform annual sewerage bill for residential customers. **For non-residential customers an appropriate sewer usage charge is required for the estimated volume discharged to the sewerage system, together with an access charge based on the capacity requirements that their loads place on the system relative to residential customers.** For guidance in developing and implementing best-practice pricing tariffs refer to **Appendix B**”

“Indicators to Demonstrate Achievement of Outcome - Appropriate water usage charge/kL based on long-run marginal cost. · **Access charge relative to a customer’s capacity requirements.-Appropriate sewer usage charge/kL.§ Access charge that is reflective of the cost of providing these sewerage services.** “

http://www.water.nsw.gov.au/ArticleDocuments/36/town_planning_water_utilities_best-practice_management_of_water_supply_and_sewerage_guidelines_2007.pdf.aspx

COAG (Council of Australian Government's)

National Water Initiative

Friday, 25 June 2004 The National Water Initiative (NWI) is Australia's enduring blueprint for water reform. Through it, governments across Australia have agreed on actions to achieve a more cohesive national approach to the way Australia manages, measures, plans for, prices, and trades water. The Intergovernmental Agreement on a National Water Initiative was signed at the 25 June 2004 COAG meeting. The Tasmanian Government joined the Agreement in June 2005 and the Western Australia Government joined in April 2006. Information on the NWI is available on the website of the National Water Commission.

On 11 April 1995, COAG reached three intergovernmental agreements establishing the National Competition Policy and Related Reforms. These were the: •Competition Principles Agreement •Conduct Code Agreement •Agreement to Implement the national Competition Policy and Related Reforms. These agreements, as agreed at 11 April 1995, are found in National Competition Council, Compendium of Agreements, Second Edition, 1998. The Intergovernmental Agreement on a National Water Initiative (25 June 2004) addressed the 2005 National Competition Policy assessment of water reform progress.

<http://www.coag.gov.au/>

<http://www.coag.gov.au/node/105>

THE NATIONAL WATER INITIATIVE

The National Water Initiative (NWI), agreed in 2004 by the Council of Australian Governments (The objective of the Parties in implementing this Agreement is to provide greater certainty for investment and the environment, and underpin the capacity of Australia's water management regimes to deal with change responsively and **fairly** (refer paragraph 23). 64. The Parties agree to implement water pricing and institutional arrangements which: v) **avoid perverse or unintended pricing outcomes**

Water Storage and Delivery Pricing 65. In accordance with NCP commitments, the States and Territories agree to bring into effect pricing policies for water storage and delivery in rural and urban systems that facilitate efficient water use and trade in water entitlements, including through the use of: i) **consumption based pricing**;

The National Competition Council (NCC) relinquished oversight of the National Competition Policy in 2004. Water reform obligations were originally part of the National Competition Policy and related reforms program. The NCP program was implemented over the period 1995-2006, accordingly, water reforms, including objectives on urban water reform, became part of the National Water Initiative (NWI) in June 2004. At the same time responsibility for driving progress on the NWI was transferred to the National Water Commission. The COAG Review of the National Water Commission was presented to the Parliamentary Secretary for Sustainability and Urban Water, Senator the Hon Don Farrell, on 6 December 2011, and tabled in Parliament on 14 March 2012. Senator Farrell announced that the government proposes to continue the National Water Commission for the life of the National Water Initiative.

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<http://www.environment.gov.au/water/australia/nwi/index.html>

http://www.water.gov.au/IntroductiontoAWR2005/TheNationalWaterInitiative/index.aspx?Menu=Level1_2_3

http://www.nwc.gov.au/_data/assets/pdf_file/0019/18208/Intergovernmental-Agreement-on-a-national-water-initiative2.pdf

THE NATIONAL WATER COMMISSION

The National Water Commission continues its important role overseeing the Council of Australian Governments (COAG) national water reform agenda, following Parliament's passage today of the National Water Commission Amendment Bill 2012. Parliamentary Secretary for Sustainability and Urban Water Senator Don Farrell said, "With the passage of this legislation, the Commission will continue as an expert and independent agency, which brings a body of knowledge and experience to bear on addressing key challenges in the ongoing implementation of the COAG water reform agenda".

Regulation of water pricing by independent bodies in each state and territory provides for pricing transparency. Under the National Water Initiative (NWI), independent bodies are required to set or review prices, or price setting processes, for water storage and delivery by government water service providers. This is to be done on a case-by-case basis, consistent with the principles in paragraphs 65 to 68 of the NWI. They are also required to publicly review and report on pricing in government and private water service providers to ensure that the principles in paragraphs 65 to 68 of the NWI are met.

<http://www.nwc.gov.au/>

IPART

Independent Pricing and Regulatory Tribunal

Rural water pricing

14 Oct 2011

Rural water pricing Independent Pricing and Regulatory Tribunal (IPART) The Independent Pricing and Regulatory Tribunal (IPART) is the independent economic regulator that oversees regulation of NSW electricity, gas, water, and transport industries. IPART is the independent regulator that determines the maximum prices that can be charged for certain retail energy, water and transport services in New South Wales. We also determine local government rates. To ensure the quality and reliability of these services, we monitor service delivery, audit suppliers and oversee licence compliance by certain water utilities and retail energy suppliers.

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http://www.ipart.nsw.gov.au/Home/About_Us

<http://www.ipart.nsw.gov.au/Home/Industries/Water>

[http://www.ipart.nsw.gov.au/Home/Industries/Research/Reviews/Custom Engagement/Custom Engagement on Prices for Monopoly Services 2011](http://www.ipart.nsw.gov.au/Home/Industries/Research/Reviews/Custom%20Engagement/Custom%20Engagement%20on%20Prices%20for%20Monopoly%20Services%202011)

<http://www.water.nsw.gov.au/About-us/Contact-us/Urban-water-enquiries/Water-utility-contact-officers/default.aspx>

SUMMARY

For non-residential customers an appropriate sewer usage charge is required for the estimated volume discharged to the sewerage system, together with an access charge based on the capacity requirements that their loads place on the system relative to residential customers

“Neutral charging” was a concept formulated in the NCP and agreed to by all three levels of government in Australia. Neutral charging is the concept enshrined in the NCP to avoid **“abuse of monopoly”**, **“perverse pricing”** by Authorities having a monopoly and **to engender trust** of the Authority in the community

By ignoring Section A, and only using the wording in half of Section B, Bathurst Regional Council has most definitely gone against the concepts of our laws.

All that is asked , is just and fair pricing.

The LORD abhors dishonest scales, but accurate weights are his delight. The integrity of the upright guides them, but the unfaithful are destroyed by their duplicity Proverbs 11:1,3