

# Summary of stakeholder workshops for Dams Safety Regulation Levy review

9 May 2024

## Overview

IPART has been authorised by the NSW Government to design a levy to recover the efficient costs of Dams Safety NSW (DSNSW) carrying out its functions. As part of this review, we held 3 workshops with interested stakeholders on 6 and 7 May 2024.

- Workshop 1 – with around 25 stakeholders representing local councils across NSW.
- Workshop 2 – with WaterNSW and the Department of Climate Change, Energy, the Environment and Water.
- Workshop 3 – with other stakeholders including government owned water utilities, private businesses, and individuals.

This paper presents a summary of the key matters discussed at these workshops.

Each workshop commenced with a short overview by Jonathan Coppel, IPART Tribunal member, on IPART's role in designing this levy, including the broader role of the NSW Government in determining whether to implement the levy. Stakeholders were also invited to introduce themselves and share any overarching views relevant to this review.

After that, workshops were divided into 2 main topics, each with a short presentation by a member of the IPART Secretariat, followed by an invitation for questions and discussion with stakeholders.

## Topic 1 – Cost allocation

Theme	Summary of discussion
<b>Uses of declared dams (and changes to uses over time)</b>	<ul style="list-style-type: none"><li>• Stakeholders provided examples of dams with a range of purposes, including water supply, flood mitigation, irrigation, power generation, recreation, environmental, and historic purposes.</li><li>• Some stakeholders provided examples of changing uses of dams - including some dams that were initially used for water supply and now repurposed for recreation.</li><li>• One stakeholder noted that while some dams have the sole purpose of supplying water, such dams can still provide environmental and economic benefits to the wider community. The stakeholder noted that using a 'proxy' community of water bill-payers could be appropriate for the purpose of allocating costs to beneficiaries.</li></ul>

	<ul style="list-style-type: none"> <li>• One stakeholder noted that some dams serve multiple purposes, and provided examples of some dams that host recreational and sporting facilities upstream (or on) their structures.</li> <li>• Equally, stakeholders acknowledged that in some cases, broader community benefits can be incidental in nature - and do not affect the costs of providing their primary services.</li> </ul>
<b>Dams that are infrequently utilised or inactive</b>	<ul style="list-style-type: none"> <li>• Stakeholders expressed potential challenges that would arise in funding the costs of a levy for declared dams that are infrequently utilised or inactive.</li> <li>• One stakeholder provided an example of a flood detention basin that is used for only around 10% of the year and is kept empty and repurposed for recreational uses when empty.</li> <li>• Another stakeholder reflected on the example of a now inactive water supply dam, that is closed to the public and provides no income-generation.</li> <li>• In both these cases, stakeholders drew upon the challenges of financing the costs of a levy for dam assets that generate no revenue for most of the year. Stakeholders felt the levy should consider the utilisation of declared dams when apportioning costs between owners.</li> </ul>
<b>Allocation of costs between two entities that mutually benefit from one dam</b>	<ul style="list-style-type: none"> <li>• One council raised the example of a 'shared' flood detention basin which provides flood protection to another council located downstream of the dam.</li> <li>• Other stakeholders noted that instances of 'shared' or 'mutually' beneficial dams are common in the sector.</li> <li>• Stakeholders agreed that a cost allocation solution that allows for multiple non-bill paying users to share the costs of the levy would assist in alleviating some affordability concerns.</li> </ul>
<b>Cost recovery in different markets</b>	<ul style="list-style-type: none"> <li>• One stakeholder commented on the difficulty of recovering costs from customers when operating in a competitive market basis.</li> <li>• Another stakeholder noted that for regulated businesses, passing costs on to customers is not simple, and in some cases, not possible without regulatory change.</li> </ul>
<b>Appropriate sharing of costs</b>	<ul style="list-style-type: none"> <li>• Stakeholders spoke about the need to split the costs of DSNSW between the NSW Government and dam owners, recognising that the purpose of dams is broader than just the water they supply to downstream customers.</li> <li>• Stakeholders noted that the NSW Government share may be higher in some of DSNSW's activities (such as policy development), and lower in others (such as managing dam owner compliance).</li> </ul>
<b>Cost recovery when there are no customers</b>	<ul style="list-style-type: none"> <li>• Several stakeholders made the point that not all dam owners have a clear customer base to pass these levy costs on to, and questioned whether it was reasonable for these dam owners to have to absorb the new costs.</li> </ul>
<b>Cost recovery via local government rating system</b>	<ul style="list-style-type: none"> <li>• One stakeholder reflected on the affordability of the levy for local councils, particularly in light of the rate peg system and the broader review of the funding model for councils.</li> <li>• One council raised that management of flood detention dams are funded through general council revenue – for which IPART plays a role in setting a rate peg. The council noted that the rate peg should enable councils to recoup the costs of the levy for some dams via ratepayers.</li> </ul>

	<ul style="list-style-type: none"> <li>IPART noted that the new rate peg methodology is more flexible in allowing groups of councils to recover some uncontrollable external costs via rates.</li> </ul>
<b>Administrative burdens for cost apportioning</b>	<ul style="list-style-type: none"> <li>One council noted the potential for administrative burden on councils to apportion levy costs between downstream customers.</li> </ul>
<b>Implications for small community dams</b>	<ul style="list-style-type: none"> <li>Some councils provided examples of dams (both flood detention and water supply) that service small communities. Councils noted that while some such dams are considered 'high consequence', they service only a small population – and such communities would bear disproportionately high costs as a result.</li> <li>Several councils noted that the size of a customer or user base of a dam should be considered when apportioning the levy.</li> <li>Some stakeholders felt that this would penalise smaller water utilities more than the larger sophisticated entities.</li> </ul>
<b>Smaller dam owners face greater challenges in adapting to new regulations</b>	<ul style="list-style-type: none"> <li>One stakeholder noted that councils and other smaller utilities have struggled to keep up with the recent changes in Dams Safety legislation.</li> <li>Stakeholders reflected on the limited availability of consultants to assist with their reporting – and the consequent delays in their submissions of required reports to DSNSW.</li> </ul>
<b>Changes to DSNSW costs over time</b>	<ul style="list-style-type: none"> <li>Some stakeholders expressed concern that the way that DSNSW conducts its operations could change over time and this could lead to escalating costs and therefore an increase in the levy dam owners pay.</li> </ul>

## Topic 2 – Levy design

Theme	Summary of discussion
<b>Overarching levy design</b>	<ul style="list-style-type: none"> <li>Stakeholders expressed agreement with the use of consequence category and number of dams as appropriate measures by which to apportion the levy between dam owners.</li> <li>One stakeholder noted that apportioning based on DSNSW's cost drivers would be the most appropriate design.</li> <li>Several stakeholders noted that the purpose of the dam should also be a consideration.</li> </ul>
<b>Consequence categories of dams</b>	<ul style="list-style-type: none"> <li>One stakeholder noted that the quantum of the levy may not be sufficient to provide a strong enough incentive for dam owners to change the consequence category of their dam.</li> <li>Stakeholders also reflected that the ability for dam owners to undertake capital works to change their consequence category may be dependent on the ability of their customers to pay for such works.</li> </ul>
<b>Impacts of a 'compliance-based' levy on smaller dam owners</b>	<ul style="list-style-type: none"> <li>Stakeholders noted that smaller dam owners are still in the process of adapting to the new regulatory regime, and felt that the introduction of a performance or compliance-based levy could penalise smaller dam owners at this stage.</li> <li>Stakeholders noted that all water utilities are required to adapt to the same new legislation - however, smaller utilities have fewer resources available.</li> </ul>

	<ul style="list-style-type: none"> <li>Stakeholders alluded to delays in annual reporting amongst smaller dam owners, highlighting their view that a compliance-based levy would disproportionately impact smaller utilities.</li> <li>Some stakeholders also felt that the implementation of a compliance-based levy may have unintended consequences in encouraging poor performance ratings of dam owners by DSNSW.</li> </ul>
<b>Affordability for end-users</b>	<ul style="list-style-type: none"> <li>In relation to a variable component of the levy, some stakeholders felt that the size and affordability of customer bases of dams should be taken into account.</li> </ul>
<b>Implications on planning/ infrastructure decisions</b>	<ul style="list-style-type: none"> <li>Some stakeholders noted that the introduction of the levy may disincentivise future flood mitigation infrastructure works.</li> <li>Stakeholders further reflected that such outcomes may have negative impacts for communities positioned in flood prone zones.</li> </ul>
<b>Relevance of dam purpose and design</b>	<ul style="list-style-type: none"> <li>Several stakeholders noted that the usage and purpose of a dam should be factored into the levy design, owing to different costs of regulating/auditing dams based on their purpose.</li> </ul>
<b>Dam operation (incl. frequency of operation and weighted risk rating)</b>	<ul style="list-style-type: none"> <li>One stakeholder expressed their view that consideration should be given to the weighted consequence levels of dams across a year. In other words, the consequence category should take into account the safety risks posed by dams both during flood and non-flood conditions.</li> <li>This point was raised with reference to an example of a dam which provides flood detention uses for roughly 10% of the year, but remains empty (and poses no safety threat) for the remainder of the year.</li> </ul>
<b>Service-based levy</b>	<ul style="list-style-type: none"> <li>Several stakeholders reflected on the importance of understanding both the current and future regulatory services provided by DSNSW. Stakeholders felt the levy should be representative of the level of effort/regulatory services received from DSNSW.</li> </ul>
<b>DSNSW's approach to risk-based regulation</b>	<ul style="list-style-type: none"> <li>Stakeholders commented on DSNSW's approach to risk-based regulation, noting that DSNSW should tailor their compliance monitoring efforts based on the consequence level of each dam.</li> <li>One stakeholder expressed their view that basing the levy on dam consequence category is the best available measure of DSNSW's costs under a risk-based regulation approach.</li> </ul>
<b>Periodic assessment of the levy</b>	<ul style="list-style-type: none"> <li>Stakeholders expressed support for some mechanism for price monitoring or oversight on DSNSW.</li> <li>One stakeholder noted that the design of the levy may influence the need and scope for periodic assessment - including whether the levy would be based on a methodology or a fixed dollar amount.</li> </ul>
<b>Implied equity and cross subsidies</b>	<ul style="list-style-type: none"> <li>One stakeholder noted their view that cross-subsidies may not be appropriate in delivering an equitable outcome in this scenario.</li> <li>The stakeholder noted that since DSNSW's costs are currently funded by consolidated government revenue, it would be more appropriate to deliver an equitable outcome by reviewing the government's cost share.</li> </ul>

## Next steps

IPART will publish a Draft Report which July which sets out our proposed design for a levy, along with initial findings around DSNSW's efficient costs and recommendations for future improvements to data collection. We will seek submissions in response to the Draft Report, as well as hold a Public Hearing to hear stakeholder views on the draft levy design, before submitting our Final Report to the NSW Government in September 2024.

