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16 April 2024

Mr Andrew Nicholls  
Chief Executive Officer  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
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Dear Mr Nicholls

## DESIGNING A LEVY FOR REGULATING DAM SAFETY IN NSW

Hunter Water welcomes the opportunity to respond to IPART's Issues Paper: *Designing a levy for regulating dam safety in NSW*, published 19 March 2024.

Hunter Water is a State-Owned Corporation (SOC) providing water and wastewater services to 630,000 people across the Greater Newcastle and Lower Hunter region. Beyond water and wastewater, we also provide stormwater drainage, trade wastewater, and recycled water services to a portion of customers in our area of operations.

Hunter Water owns four declared dams, summarised in the below table.

Licence area	Dam purpose	Consequence category	Storage Volume
Grahamstown Dam	Water supply	Extreme	185,000 ML
Chichester Dam	Water supply	High A	18,356 ML
Winding Creek Detention Basin 3	Flood mitigation	Significant	72 ML (normally empty)
Winding Creek Detention Basin 5	Flood mitigation	Significant	240 ML (normally empty)

Hunter Water accepts the NSW Government and IPART's intent to set a cost-reflective levy consistent with the 'impactor pays' principle – dam owners funding Dam Safety NSW's (DSNSW) activities according to the contribution their dam assets make in driving the need for these regulatory costs.

Our submission makes the following key points:

- It is important that DSNSW is subject to ongoing independent price monitoring or regulation to ensure its costs, and therefore the levy, remain efficient over time.
- Apportioning the costs based on the consequence category of the dams is the most suitable method for linking the levy to the time and resources spent by DSNSW in undertaking its regulatory activities.
- IPART should consider how the dam safety levy costs would be recovered by Hunter Water, given the timing of our upcoming pricing proposal.

## Determining DSNSW's efficient costs and the cost recovery methodology

IPART determines the prices Hunter Water can charge for our regulated Monopoly services through a comprehensive price review process every five years. In a price review, Hunter Water's efficient costs are estimated and then converted to revenue requirements using a Building Block Methodology (BBM). Based on the forecast demand for our services and the number and type of properties we serve, the revenue requirements are converted into customer prices.

IPART price reviews over a long period of time have helped establish Hunter Water's prudent and efficient cost base, and our equitable and cost-reflective approach to the pricing of our services.

If DSNSW's costs are to be recovered via a levy charged to dam owners – which for Hunter Water is ultimately passed on to our customers – it is important that the costs included in the levy are prudent and efficient. Hunter Water supports periodic independent review of DSNSW costs to ensure they remain efficient as DSNSW's budget and activities evolve over time.

## Calculating the levy payable to dam owners

In designing the levy, DSNSW's costs should be apportioned in a way that links, as closely as possible, the levied amounts to the main driver of costs incurred by DSNSW.

Hunter Water assumes the compliance activities undertaken by DSNSW follow a risk-based approach – i.e. are tailored based on the safety risk of the dams being regulated. We expect that dams with a higher inherent risk would require more resources to regulate than lower risk dams. The consequence category of the dam is a suitable proxy for the safety risk and therefore the most reasonable basis for apportioning the costs across dams and dam owners.

Hunter Water supports the idea of a 'discount' for owners of multiple dams. This was determined to be 30% in the 2020 review. Some quantum of discount is likely to be cost-reflective given the economies of scale that DSNSW should be expected to achieve when regulating a single dam owner with multiple dam assets.

## Hunter Water's ability to recover dam safety levy costs from its customers

As a SOC, Hunter Water is expected to operate as a commercial business and provide a return to its shareholder: the NSW Government. The revenues needed to fund the delivery of our services are recovered almost exclusively from our customers.

The determination of prices for a five-year period locks-in Hunter Water's expected revenues and capital and operating expenditure allowances over that period. These expenditure allowances operate as 'envelopes' that we are expected to manage cost risks within – i.e. when experiencing unforeseen cost events, or higher costs than were forecast when setting prices.

Hunter Water's price reviews follow a 'propose-respond' model. Our next pricing proposal is due in September 2024. This will be followed by IPART's public nine-month review process. Hunter Water's new prices will be determined and effective 1 July 2025. These prices are not expected to be reset again until 1 July 2030.

IPART intends to provide its dam safety levy Final Report to the Government in September 2024 for consideration. Due to the timing relative to Hunter Water's own pricing proposal, we do not expect, prima facie, to be able to incorporate a known cost of the estimated dam safety levy into our pricing proposal expenditure allowances, as needed to recover the costs via customer prices.

Without IPART implementing other mechanisms – for example: phase-in of the levy; a cost-pass through arrangement; or later inclusion by IPART of the levy costs into Hunter Water's draft or final price determination – the levy costs will either need to displace other planned costs as we prioritise within our expenditure envelopes, or else be borne by our shareholder (the NSW Government) as a lower return if we need to spend beyond our regulated expenditure allowance.

Based on the indicative levies calculated for DSNSW in 2020, Hunter Water expects to be able to manage the costs within our IPART-determined expenditure allowances with no material impact on our operations or service delivery. However, this may change depending on the size of the levy. If the levy is materially higher than calculated in 2020, IPART should contemplate the alternative mechanisms listed above.

Hunter Water seeks clarification on the implementation date of the levy, on the understanding that it may commence from 1 July 2024, and be backdated in the determination. To allow appropriate financial planning and budget management, the levy should not be backdated. It should be levied no earlier than the commencement of the next financial year following IPART's determination and formal communication of the final levy amount to all dam owners.

## **Responses to the targeted questions in IPART's Issues Paper**

### **How would this levy impact your operations and ongoing delivery of services?**

As explained above.

### **Does DSNSW conduct any activities that are broader than dam safety and therefore should sit outside the levy?**

Hunter Water is not aware of the full scope of DSNSW's activities and not in an informed position to comment.

### **Do you expect that the regulatory support you require from DSNSW will reduce as dam owners get more familiar with the new regulatory regime?**

Yes. The Dams Safety Regulation was established in 2019. The risk reviews of most dams undertaken during the last five years were typically the first under the new Regulation. These reviews identified many new dam safety issues that required thorough consideration.

Hunter Water has publicly released its risk assessment for Chichester Dam and is currently working with expert consultants to finalise its review for Grahamstown Dam. In completing these reviews in accordance with the new regulatory approach, Hunter Water has incurred substantial expenditure. Recommendations of these reviews are informing planning for significant further expenditure over the coming decade.

Hunter Water expects that DSNSW's regulatory workload may reduce over time as the risk reviews become more routine and begin to identify fewer new risks, instead increasingly focusing on how the existing identified risks may have changed.

Similarly, Hunter Water is aware that DSNSW have dedicated substantial resources in recent years to supporting dam owners with training and developing guidance material. These costs would be expected to reduce over time as dam owners require less training and the guidance materials are reused.

### **How the levy should be apportioned between different dams or dam owners?**

As explained above.

### **Is your dam's primary purpose to serve the broader community beyond your customers/ratepayers?**

Our water supply dams are used solely for water supply, and our detention basins solely for flood protection. The need for these assets is driven by residential and non-residential customers in our region. However, it should be noted there are broader beneficiaries of these assets – all potential water consumers in the region including holidaymakers and non-customers, and those exposed to the flooding risks mitigated by our two detention basins. Further, secure water supply is essential to supporting a prosperous economy, and enabling growth, in the region.

### **How can dam owner regulatory performance be recognised in the levy over the longer term?**

Using a risk-based approach to compliance monitoring and enforcement, Hunter Water expects there could be reason or opportunity for DSNSW to tailor its compliance activities over time based on the regulatory performance of dam owners or individual dams. If this materially changed the time and resources DSNSW incurs in undertaking its activities, this could potentially be passed on via discounts or refinement to the levied amounts. Hunter Water expects the scope and scale of

this opportunity is likely to be limited given the inherent risks in dams and need to undertake activities irrespective of prior regulatory performance.

**How we can minimise issues of affordability and disruption during implementation (for instance, a gradual levy phase-in)?**

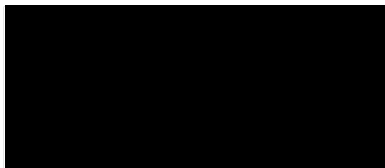
As explained above.

**Should the levy be subject to periodic independent review?**

As explained above.

We thank IPART for the opportunity to contribute towards this review.

Yours faithfully

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