



12 April 2024

Independent Pricing and Regulatory Tribunal (IPART)
PO Box K35
Haymarket Post Shop, NSW 1240s

Submitted via online portal

Subject: Submission – Dams Safety NSW levy review

Lake Macquarie City Council (Council) writes in response to your invitation to stakeholders to provide a submission to IPART's review of a proposed dams safety levy.

Council has two declared dams that are subject to the proposed levy:

1. **Floraville Road Detention Basin** (Dams Safety NSW Dam ID 111):
 - Flood Consequence Category Significant
 - Sunny Day Consequence Category Low

2. **Garden Suburb Detention Basin No. 2** (Dams Safety NSW Dam ID 507)
 - Flood Consequence Category Significant
 - Sunny Day Consequence Category Low

The primary purpose of both dams is to provide flood mitigation to downstream communities and support flood mitigation strategy within the Lake Macquarie catchment.

Council provided a submission to Dams Safety NSW in October 2020 regarding the introduction of a proposed dams safety levy. Council opposed the introduction of the levy at that time for several reasons, including the following:

- The calculation of the levy on the basis of consequence category alone was considered too broad an approach and potentially biased.
- Dams Safety NSW was not providing full regulatory functions and it was considered inappropriate to levy charges for services not provided.
- The proposed funding model recommended education be included as part of cost recovery and funded by the proposed dams safety levy, however Dams Safety NSW was at that time to cease conducting training courses.
- The levy was to include cost recovery for compliance audits, but the framework for compliance audits was not in place.
- The proposed funding model estimated standard costs for reviewing reports irrespective of their consequence category and complexity.
- There had been no planning to demonstrate to dam owners the efficiency and effectiveness of the monitoring mechanisms and systems Dams Safety NSW intended to use to undertake its regulatory activities.

Council welcomes IPART's consideration of previous submissions as part of this review and analysis of the costs and design of the proposed levy. Council supports the four-step approach IPART plans to take to calculate the levy.

Council staff have reviewed the *Issues Paper – Designing a levy for regulating dam safety in NSW* and provide the following responses to the specific questions raised.

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

The proposed dams safety levy would have a significant and ongoing financial impact on services Council provides to the community. Calculations using the previous proposed funding model indicated an annual cost of \$15,453 to Council and our ratepayers.

The levy is not budgeted in Council's long term financial plan and a reduction in other services may be required to offset a levy contribution. Council may be required to review its rates, fees and charges in order to offset the cost of the proposed levy.

The levy would be an impost on Council in addition to the existing costs incurred for administration and compliance with the legislated Dams Safety framework.

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

Council does not anticipate a reduction in Dams Safety NSW's regulatory support to Council as the Dams Safety regulatory framework matures and is fully implemented.

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

Council believes the proposed levy should be based on factors that include:

- potential to endanger downstream life: the population at risk (PAR) and probable loss of life (PLL) should be weighted so that a higher PAR and PLL attracts a higher levy. The previous proposed funding model highlighted that compliance of higher-risk dams should be the focus for Dams Safety NSW
- consideration of the dam type and volume, recognising that some dam types and dams with larger volumes require additional regulatory support
- potential to cause major damage or loss of infrastructure or the environment: the greater the value of infrastructure and/or environmental risk, the greater the levy
- major health and social impacts: higher impacts should attract a higher levy (noted, this item is linked to PAR)
- consideration of a higher levy for dams that serve a commercial purpose rather than provide public benefit.

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

The primary purpose of Council's declared dams is to provide flood mitigation to downstream communities and support flood mitigation strategy within the Lake Macquarie catchment.

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

A proposed dams safety regulation levy should reflect the level of regulatory support provided by Dams Safety NSW to dam owners. If a dam owner is effectively undertaking dam safety requirements, and does not require the additional regulatory support from Dams Safety NSW, this should be reflected in a lower levy for that dam owner.

Should the levy be subject to periodic independent review?

Council supports periodic independent review of a proposed dams safety levy. Ongoing monitoring should include review of the effectiveness and efficiency of regulatory activities to identify continual improvements. It should also review the level of resourcing required to conduct Dam Safety NSW activities.

Periodic independent review should be aligned to the four-step approach IPART plans to take to calculate the levy.

Any other issues you feel are relevant.

Recoupment of levy costs by local government

The discussion paper (p.3) makes general comment about the affordability of the levy but no specific reference to how the additional financial impost could be recouped by local government entities. An administrative mechanism to allow councils to recoup the cost from all ratepayers, rather than just those properties immediately downstream, would be preferable in instances where declared dams provide a broad public benefit – such as a Lake Macquarie's two dams which support flood mitigation strategy across the catchment. This solution could be facilitated by an IPART recommendation to allow councils to administer cost recoupment through the rating system. Alternatively, IPART could consider recommending direct government funding to councils that manage dams providing a broad public benefit, to offset the additional costs incurred through the levy.

Further financial support for local government

Review of the proposed dams safety regulation levy should consider the requirements for a competent person to carry out risk rating calculations. The requirement for a panel of competent persons to prepare and independently verify safety reviews, and dam designs for high or extreme consequence category declared dams, will increase demand and cost for "competent persons", making it difficult and expensive to obtain their services.

Consideration should be given to providing financial and regulatory support to local governments to assist them to comply with the regulations and improve safety of dams within their control. The NSW Floodplain Management Program may provide a useful model.

The previous proposed funding model recommended education be included as part of cost recovery and funded by the proposed dams safety levy. However, it was noted in the information sessions with councils in early October 2020 that Dam Safety NSW would no longer conduct training courses previously undertaken by the former Dams Safety Committee.

Consideration should be given to providing financial support to dam owners to assist them with providing training to their staff, so they can effectively and efficiently undertake dam safety activities and support Dam Safety NSW in managing the safety of declared dams in NSW.

Acknowledgement

Council appreciates the opportunity to provide this feedback. Should you require further information about the matters addressed in this submission, please contact [REDACTED]

[REDACTED]

Yours sincerely,

[REDACTED]

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