

D24/86963

19 August 2024

Independent Pricing and Regulatory Tribunal NSW
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RESPONSE TO DRAFT REPORT – DAM SAFETY LEVY REVIEW (JULY 2024)

This is Orange City Council's first submission to the Dam Safety Levy Review process.

Council fully endorses previous submissions on the Issues Paper from the:

- NSW Water Directorate (16 April 2024 attached); and the
- Central NSW Joint Organisation (12 April 2024 attached)

Council also endorses the Central NSW Joint Organisation's submission to the Draft Report (July 2024).

Previous submissions to Dam Safety NSW in October 2020 on the "*Proposed amendment to the regulation to introduce a dam safety levy*" from the above organisations are also fully supported.

Orange City Council is a Local Water Utility in the Central Tablelands of NSW that owns and operates four (4) declared dams, two of which are high consequence category and two of which are significant consequence category those being:

- Suma Park Dam (primary water supply);
- Spring Creek Dam (secondary water supply);
- Gosling Creek Dam (recreational); and
- Lake Canobolas (recreational)

The total recommended levy for all dams owned and operated by Orange City Council is **\$48,412** (as per Appendix C, Table C1 of the Draft Report)

Compliance costs

Orange City Council takes our regulatory responsibility for the safety of our dams very seriously. Council has invested significant funds to comply with the Dam Safety Act, 2015 and the Dams Safety Regulations, 2019.

Compliance costs associated with owning, operating and maintaining Council's 4 declared dams include the ongoing development, review and implementation of the:

- Dams Safety Management System (DSMS);
- Operation and Maintenance Manuals;
- Annual Surveillance Reports;
- Dam Emergency Plans; and
- Risk Assessment Reports

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Further Consequence Category Assessments and Safety Reviews will need to be carried out in the medium term.

Council also employs a fulltime Dam Operator for ongoing inspections, operations and maintenance and is currently undertaking an “*Engineering Assessments and Risk Mitigation Upgraded Options Study*” for Gosling Creek Dam Safety Upgrade which will more than likely lead to further capital investment over the next 2-3 years.

Council is approaching best practice in Dam Safety compliance. As council leads the way in the management of its dams, regulatory support required by Dams Safety NSW can be kept to a minimum. Orange City Council should not be thrown into the same category as other less well managed dams.

Given all the above, Council believes Dams Safety NSW should consider introducing a greater discount for owners of multiple dams and those that are approaching or are achieving compliance. Effectively where there is one dam safety management system (DSMS) the discount currently proposed does not appear to reflect the reduced regulatory workload.

Council objects to the introduction of a dam safety regulation levy. The levy would represent yet another example of cost shifting from state government to local government without regard for the ability of regional communities to pay.

The introduction of the levy appears to contradict the recognition in the NSW government that there are serious burdens on council owned local water utilities and local government more generally that threaten the financial sustainability of councils. This is evidenced in the recently released NSW Productivity and Equality Commission’s *Review of funding models for Local Water Utilities (July 2024)*. Regional communities already require significant financial assistance to support safe and affordable water supplies.

Local Water Utilities are staffed by much smaller teams, and yet they must operate in the much the same complex web of governing legislation with the same responsibilities as Sydney Water or Hunter Water:

- **Public Health Act 2010** – regarding maintaining a Drinking Water Management System for safe drinking water
- **Protection of the Environment Operations Act 1997** – regarding holding Environmental Protection Licences Pollution Incident Response Plans (PIRMP’s)
- **Environmental Planning and Assessment Act 1979** – regarding determining approvals to construct water and sewerage infrastructure and ensure appropriate servicing plans for land.
- **Dams Safety Act 2015** – to ensure that any risks from dams owned by councils are managed to an acceptable level
- **Work Health and Safety Act 2011** – to ensure the safety of water and sewerage workers
- **Water Act 2007 (Commonwealth)** – with regard to national performance reporting requirements for water utilities

Apart from dams for drinking water supply (or community owned recreational dams), applying the levy to stormwater detention systems reduces the incentive for Councils to implement and maintain flood mitigation structures.

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If Dams Safety NSW intends to proceed with the levy, Council asks that either:

- 1) The levy does not apply to town water supply dams or community owned recreational dams or stormwater detention systems, which are essential local community services, or alternatively.
- 2) Smaller communities with lesser ability to pay have the levy waived or capped via a Community Service Obligation as recommended in the *Review of funding models for Local Water Utilities (July 2024)*. An option could be that the proposed levy can be invested in to Dam Safety Compliance for the dam owner.
- 3) That there should be a greater discount for owners of multiple dams; and
- 4) That Local Government owned dams that are operated and maintained in compliance with the Dams Safety Act, 2015 and Dam Safety Regulation, 2019 will not incur a levy.

Thank you for the opportunity to make this submission. Should any further information be required, please contact [REDACTED]

Yours faithfully

[REDACTED]

[REDACTED]

16 April 2024

Independent Pricing and Regulatory Tribunal NSW

Submitted via website: [Have your say | IPART \(nsw.gov.au\)](https://www.ipart.nsw.gov.au)

Response to Issues Paper – Designing a levy for regulating dam safety in NSW

The NSW Water Directorate is the peak industry body for 87 out of 90 local government owned water utilities (LWU's) in regional NSW. Further information about us can be found at: <https://www.waterdirectorate.asn.au/AboutUs.aspx>.

The Water Directorate relies upon its submission to Dam Safety NSW dated 30 October 2020, which we understand that IPART will have reviewed during the preparation of the Issues Paper. We continue to object to the introduction of a dam safety regulation levy. The levy would represent yet another example of cost shifting from state government to local government without regard for the ability of regional communities to pay. Local Government NSW in their latest cost shifting report¹ was released in November 2023, highlighted a total cost shift to councils of \$1.36 billion in 2021-22, which is the equivalent of more than \$460 per ratepayer annually.

The introduction of the levy appears to contradict the recognition in the NSW government that there are serious burdens on council owned local water utilities and local government more generally that threaten the financial sustainability of councils. This is evidenced in concurrent reviews in NSW such as the NSW Productivity Commission's *Review of funding models for Local Water Utilities*² and the *Inquiry into the ability of local governments to fund infrastructure and services*³ by the NSW Legislative Council Standing Committee on State Development. Regional communities already require significant financial assistance to support safe and affordable water supplies.

Local Water Utilities are staffed by much smaller teams, and yet they must operate in the much the same complex web of governing legislation with the same responsibilities as Sydney Water or Hunter Water:

- **Public Health Act 2010** with regard to maintaining a Drinking Water Management System for safe drinking water
- **Protection of the Environment Operations Act 1997** with regard to holding Environmental Protection Licences Pollution Incident Response Plans (PIRMP's)
- **Environmental Planning and Assessment Act 1979** with regard to determining approvals to construct water and sewerage infrastructure and ensure appropriate servicing plans for land.
- **Dams Safety Act 2015** – to ensure that any risks from dams owned by councils are managed to an acceptable level
- **Work Health and Safety Act 2011** – to ensure the safety of water and sewerage workers
- **Water Act 2007 (Commonwealth)** – with regard to national performance reporting requirements for water utilities

¹ Available at: https://lgnsw.org.au/common/Uploaded%20files/Cost_Shifting/ML_Report-LGNSW-Annual_Cost_Shifting.pdf

² More information: <https://www.productivity.nsw.gov.au/local-water-utilities-funding-models-review>

³ More information: <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=3040>

Apart from dams for drinking water supply, applying the levy to stormwater detention systems reduces the incentive for Councils to implement and maintain flood mitigation structures.

If Dams Safety NSW intends to proceed with the levy, we ask that either:

- 1) The levy does not apply to town water supply dams or stormwater detention systems, which are essential local community services, or alternatively
- 2) Smaller communities with lesser ability to pay have the levy waived or capped

Dams Safety NSW should also consider introducing a greater discount for owners of multiple dams. Effectively where there is one dam safety management system the discount currently proposed does not appear to reflect the reduced regulatory workload.

The Water Directorate has seen and acknowledges the submissions of Local Government NSW and Clarence Valley Council and fully supports their submissions.

Thank you for the opportunity to make this submission. Should any further information be required, I can be contacted on [REDACTED].

Yours sincerely

[REDACTED]
[REDACTED]

12 April 2024

Reference: mm:jb 240412

Enquiries: [REDACTED]

Independent Pricing and Regulatory Tribunal NSW
PO Box K35
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Re: Dam Safety NSW Levy Review

Local Government Regional Joint Organisations (JOs) were proclaimed in May 2018 under the NSW Local Government Act 1993. The Central NSW Joint Organisation (CNSWJO) represents over 177,000 people covering an area of more than 51,000sq kms comprising the Local Government Areas of Bathurst, Blayney, Cabonne, Cowra, Forbes, Lachlan, Lithgow, Oberon, Orange, Parkes, Weddin, Central Tablelands Water, and Upper Macquarie County Council.

Tasked with intergovernmental cooperation, leadership and prioritisation, JOs have consulted with their stakeholders to identify key strategic regional priorities. The CNSWJO Strategic Plan can be found on the CNSWJO website www.centraljo.nsw.gov.au or directly via this link: www.centraljo.nsw.gov.au/content/uploads/051222_CNSWJO-Strategic-Plan-October-2023-Final.pdf

We thank you for the opportunity to provide response to the issues paper on Designing a levy for regulating dam safety in NSW. Where our member councils may provide separate submissions, this response is informed by policy developed in region and endorsed by the CNSWJO Board.

CNSWJO member councils all operate local water utilities (LWUs), so the security, availability and affordability of town water supplies for the communities in Central NSW is core business for the councils in this region. Our councils service 72,314 water connections and manage 14 water treatment plants. In addition, they own and operate a total of eighteen declared dams for the purpose of either town water supply or stormwater detention. Two councils are responsible for one dam each, four for two dams, while two have responsibility for four dams. Of these at least 12 are in the high risk consequence category and one in the extreme category. Four are detention basins for stormwater capture.

Having last week submitted to the NSW Productivity Commission inquiry into alternate funding models for Local Water Utilities (LWUs) and the need to reduce the cost burden on regional communities, the introduction of a dam safety levy is yet another cost shifting exercise to those very same LWUs without regard to the ability of regional communities to pay.

The potential cost of a dam safety levy on regional councils already struggling with financial viability of providing LWU services to their communities will only serve to compound an existing problem.

Our member councils continue to be impacted by the escalating costs of responding to successive natural disasters including the demands of providing water security and water quality under ever

increasing regulatory requirements with already ageing infrastructure. To expect councils to pay for the regulatory function of Dam Safety NSW (DSNSW) will add further cost to the operation of town water supplies. These costs will potentially need to be recovered by way of additional charges to town water supply customers who should not have to pay extra for their essential services as a result of this levy.

As dam owners, each of our councils takes their regulatory responsibility for the safety of their dam(s) very seriously. All participate in a regional Dam Surveillance and Inspection program procured 5-yearly through the CNSWJO and are working to undertake dam safety risk reviews as required under the dam safety legislation.

The risk reviews are just the beginning of the costs to councils with the more significant being the costs associated with implementing any work recommended through these. Where councils do not pay levies to other regulators for audits, for example NSW Health, it seems counterintuitive that at the same time as examining how to alleviate the financial burden on regional communities, there is discussion of a levy for DSNSW to undertake their regulatory function.

The important role that DSNSW plays is acknowledged however, the CNSWJO Board considers that the service it provides is for the public good and that this service should continue to be funded from consolidated revenue. Introduction of the levy would be yet another cost shift from the State Government onto councils.

Aligned with responses from LGNSW and the NSW Water Directorate to the CEO Dams Safety NSW (November 2020) when this levy was first proposed, the CNSWJO Board strongly objects to the introduction of a dam safety levy.

Where a dam safety levy may not be unreasonable for non-Local Government dam owners such as Hunter Water or WaterNSW where the costs can be spread across a larger customer base or mining companies, the CNSWJO Board asks that if this levy is introduced that:

- 1) The levy does not apply to town water supply dams or stormwater detention systems, which are essential local community services, or alternatively
- 2) Smaller communities with lesser ability to pay have the levy waived or capped; and
- 3) That there should be a greater discount for owners of multiple dams.

Further, applying the levy to stormwater detention systems reduces the incentive for councils to implement and maintain flood mitigation structures. Cowra Shire Council, a middling size regional council has four detention basins and should not be impacted by additional cost to maintain these.

We would welcome the opportunity to discuss these alternative approaches at an appropriate time. Please contact [REDACTED] if you would like to discuss any of the above.

Yours sincerely,

[REDACTED]
[REDACTED]