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Dear Matt

**Re: Dams Safety NSW Levy Review – Submissions to IPART’s Draft Report**

FTI Consulting has been asked to provide its views on issues raised in submissions to IPART’s Draft Report on the Dams Safety NSW levy review.

The two issues that were raised by stakeholders that IPART have requested FTI’s views on are whether:

1. a discount should be provided to dam owners who own multiple dams, and
2. the levy needs to be updated because of Dams Safety NSW reporting a higher actual cost for the 2023-24 financial year than what was assumed when the levy was calculated in the Draft Report; and to provide for an additional 0.4 FTE for administering the billing of the levy.

IPART also requested FTI Consulting conduct additional analysis of Dams Safety NSW’s costs.

Each of these issues are addressed below.

**A discount for dam owners who own multiple dams**

Several submissions to IPART’s Draft Report requested that a discount be applied where a dam owner has multiple dams that are subject to regulation by Dams Safety NSW. The submissions suggested, among other things, that multiple dam owners would have one dam safety management system, therefore lessening the effort required to regulate those dams.

In our Final Report we noted that although the CIE Report that was completed in 2020 assumed that the costs of regulating multiple dams was likely to be 30 per cent lower, our engagement with Dams Safety NSW suggested that there was insufficient evidence that costs vary significantly according to whether dam owners own multiple dams.

In response to the issue raised by stakeholders, FTI Consulting undertook a more detailed workshop with Dams Safety NSW to explore this further. At the workshop there was a discussion for each of the 12 activities identified that Dams Safety NSW undertakes in relation to performing its functions, see Table 1 below.

Table 1: Direct costs associated with declared dam activities by cost driver

Activities attributable by consequence rating	\$	%
Respond to non-compliance	618,380	39
Audit compliance – operations and maintenance	586,900	37
Audit compliance – design and construction	11,250	7
Audit compliance - decommissioning	27,900	2
Monitor compliance – review other reports	257,650	16
<b>Total</b>	<b>1,602,080</b>	<b>100</b>

Activities attributable on per dam basis	\$	%
Educate and inform	966,350	65
Respond to incident reports	79,210	5
Monitor dams above safety threshold	78,450	5
Declare and revoke dam declarations	78,200	5
Declare mining notification areas	66,590	4
Review annual standards reports	67,370	5
Develop regulatory guidance	159,370	11
<b>Total</b>	<b>1,495,540</b>	<b>100</b>

Source: FTI Consulting estimates based on 2023-24 expenditure and assumptions provided by Dams Safety NSW.

For each of the activities there was a discussion about the actions undertaken and whether any of these were related specifically to a dam owner or a dam. There were only two of the 12 activities where it was considered that there were actions that may relate more specifically to dam owners, these being:

- Audit compliance – operations and maintenance
- Monitor compliance – review other reports.

For these activities it was acknowledged that part of the auditing and monitoring related to the dam safety management system and therefore would only need to be considered once when undertaking these activities. However, the proportion of effort required to audit the management system is relatively low when compared to the other activities, which relate more specifically to an individual dam. Dams Safety NSW considers this effort may only be as high as 10 per cent of the total effort, although this was not supported by any evidence, such as time sheets.

It is worth noting that the costs relating to the two activities is \$844,550 out of a total of \$3,097,620 in direct costs (around 27 per cent). If the costs related specifically to dam owners was as high as 10 per cent, then this would amount to approximately \$85,000, or around 2.7 per cent of the direct costs. Given this potential cost is relatively minor and unable to be verified with a high degree of certainty without specific recording of staff time, it would not be prudent at this time to consider applying a discount for dam owners with multiple dams based purely on this information.

As suggested in our Final Report, we recommend that Dams Safety NSW develop a better understanding of the actual costs incurred in undertaking its regulatory activities. This will provide more reliable information about the true costs of its activities to both inform future assessments of the expenditure to be recovered through a levy and to enable Dams Safety NSW to identify opportunities to improve its efficiency.

### **Updating the levy**

In response to IPART's Draft Report, Dams Safety NSW proposed that the levy be updated as a result of the actual costs being higher than the forecast costs assumed when the levy was developed.

IPART's Draft Report used the forecast expenditure that was provided by Dams Safety NSW to FTI Consulting. This forecast included 10 months of actual expenditure and a forecast of the remaining two months of the 2023-24 financial year.

The forecast expenditure for 2023-24 was \$4.59 million, of which \$4.45 million was to administer the Dams Safety Act in relation to declared dams, and it excluded \$0.14 million of costs not strictly related to declared dams, which relates to the provision of advice to the Minister and Government and assessing mining consent applications.

Dams Safety NSW provided its financial statement for 2023-24, which indicated that its expenditure was \$4.85 million. FTI Consulting sought further information from Dams Safety NSW as to the reason for the difference between the forecast and actual expenditure.

In its response, Dams Safety NSW provided advice it had received from its finance team, which indicated that the salaries and wages component of the financial statements are separated into the:

- expenses incurred by Dams Safety NSW (Note 2(a)) and
- salaries and wages assumed by the Crown (Note 3(d)).

The advice states that these are required to be considered together, and as a result the salaries and wages assumed by the Crown (\$273,000) needs to be offset against the salaries and wages expense (\$3,455,000). This results in the expenditure for Dams Safety NSW for the 2023-24 financial year being \$4.58 million.

As the actual expenditure for 2023-24 after the adjustment to salaries and wages (\$4.58 million) is not materially different to that used to calculate the levy (\$4.59 million), FTI Consulting does not consider an adjustment is necessary.

Dams Safety NSW also suggested that the levy would need to be updated to include an additional cost of administering the billing of the levy. It proposed that it would require 0.4 FTE to undertake this task.

FTI Consulting acknowledges that there will be an administrative cost associated with charging the levy, however, we consider that this cost will not be material and can be accommodated within the current estimate of efficient costs used to develop the levy. We therefore do not consider any adjustment to be necessary.

## Additional analysis of costs

IPART has requested that FTI Consulting undertake some additional analysis of the operating costs of Dams Safety NSW, particularly regarding the level of salaries paid to staff and the overhead costs of the organisation.

We have looked to compare the operating costs of Dams Safety NSW with other regulators in New South Wales. The analysis compared seven other regulators of various sizes and used the latest publicly available information from the 2022-23 Annual Reports. The results of this analysis are summarised in Table 2 below.

Table 2: Operating costs of NSW Regulators, \$000's

	DSNSW	NRAR	IPART	SIRA	IRO	IPC	ARB	TA
Salaries and wages	3,455	19,452	22,510	48,003	8,728	4,235	944	32,155
On costs	321	2,973	3,160	8,887	1,415	620	146	5,852
<b>Personnel costs</b>	<b>3,776</b>	<b>22,425</b>	<b>25,670</b>	<b>56,890</b>	<b>10,143</b>	<b>4,855</b>	<b>1,090</b>	<b>38,007</b>
Operating costs	805	9,693	11,316	51,646	4,892	2,047	739	101,170
<b>Total operating costs</b>	<b>4,581</b>	<b>32,118</b>	<b>36,986</b>	<b>108,536</b>	<b>15,035</b>	<b>6,902</b>	<b>1,829</b>	<b>139,177</b>
FTEs	24	196	158	413	71	31	7	300
Salaries and wages/FTE	143,958	99,245	142,468	116,343	122,928	136,618	127,535	107,076
Personnel costs	82%	70%	69%	52%	67%	70%	60%	27%
Other operating costs	18%	30%	31%	48%	33%	30%	40%	73%
	100%	100%	100%	100%	100%	100%	100%	100%

Source: 2022-23 Annual Reports for: Natural Resources Access Regulator; Independent Pricing and Regulatory Tribunal; State Insurance Regulatory Authority; Independent Review Office; Independent Privacy Commission; Architects Registration Board; NSW Telco Authority. For Dams Safety NSW: Financial Statements for the year ending 30 June 2024.

The analysis undertaken needs to be considered in the context of the specificity of the information publicly available. Direct comparisons can be challenging given that the regulators used for comparative purposes have slightly different ways for accounting for certain costs. For example, some of the regulators either provide their own corporate support, such as finance, HR and ICT, and these costs are recorded in 'Operating costs'. Other regulators receive these support services from their supporting government department, and these are identified separately in 'Operating costs' as a payment to that department. However, Dams Safety NSW is charged for these services by the Department of Planning and Environment based on the hours that staff work, and they are included in the salaries and wages costs.

Despite the limitations the data has on the ability to directly compare the costs of NSW regulators, we can observe that Dams Safety NSW's costs of employing staff and providing support services is not materially inconsistent with other regulators. Although the average cost of personnel services is the highest at \$143,958 per FTE, this is not a surprising result as:

- Dams Safety NSW would have a larger proportion of office-based professional employees when compared to other regulators who may have more field-based staff
- the relatively low number of FTEs means that the average cost is higher due to the costs of senior executives being spread among lower numbers of non-executive staff, and
- the support costs for finance, HR and ICT are included in the costs of salaries and wages for Dams Safety NSW, whereas most of the other regulators include these in 'Operating costs'.

Based on this further analysis, FTI Consulting is satisfied that the operating costs used to develop the levy are not materially inconsistent with the costs of other NSW regulators.