

Designing a levy for regulating dam safety in NSW

19 March 2024

The NSW Government has authorised IPART under the *IPART Act 1992* to design a levy to recover Dams Safety NSW's efficient costs.

Dams Safety NSW (DSNSW) is an independent regulator responsible for ensuring that dam owners manage the safety of 'declared dams' in NSW. You can read more about its role, and who 'declared dam' owners are on its website [here](#).

In 2015, the NSW Parliament passed legislation allowing the NSW Government to establish a levy to fund the costs of regulating the safety of declared dams. IPART has been authorised to design this levy, which the NSW Government may then choose to implement. Our [Terms of Reference](#) ask us to:

 <p>Investigate and report on the efficient costs of DSNSW carrying out its functions.</p>	 <p>Recommend a methodology for recovering the efficient cost from individual dam owners.</p>	 <p>Recommend a methodology for determining a levy, and the quantum of the levy, to be assigned to individual dams.</p>	 <p>Recommend information that DSNSW should collect to inform future assessments of efficient costs and determination of the levy.</p>
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Dams play an important role in NSW's water landscape, and provide numerous benefits to communities, industry and the environment. They also play a key role in building greater flood resilience for the broader NSW community. NSW is home to tens of thousands of dams, of which 380 are 'declared' – i.e., those which can potentially endanger life downstream, cause major damage or loss to infrastructure, the environment, or have major health and social impacts. These dams are also exposed to the growing pressures of climate change and the increasing frequency of severe weather events and natural disasters. Ensuring the safety of declared dams is in everyone's interest – now and into the future.

The authority for the NSW Government to have a dams safety regulation levy was first introduced in the *Dams Safety Act 2015*. In 2020 DSNSW commenced work on developing a funding model to recover its costs and to calculate an annual levy on dam owners. At the time, DSNSW's budget to fulfil its regulatory functions was \$4.6 million per year, and the calculated annual levy ranged from \$5,048 to \$16,923 per dam (depending on the consequence of dam failure and the number of declared dams owned). DSNSW invited stakeholder feedback and received 41 submissions from stakeholders across a range of community, industry and government groups.

We will consider all of the submissions from 2020 as we conduct our review. Some of the key issues raised in 2020 by stakeholders included:

- The appropriateness of charging a levy on activities that may provide a public benefit, such as flood mitigation.
- The affordability of the levy for smaller dam owners and local government.
- The lack of benchmarking data available to assess the efficiency of DSNSW's costs.
- The challenge of distinguishing between DSNSW's current efficient costs and its potentially lower future efficient costs as the industry gets more familiar with the regulatory regime.
- Alternative methods of calculating the levy, including charges based on dam volume, consequence category, compliance history and dam type.

Our approach to calculating the levy

In this review we will undertake our own analysis on costs and levy design, while also taking into consideration DSNSW's prior work and the feedback from stakeholder submissions in 2020. Stakeholders are welcome to make new submissions to this Issues Paper, however, we will also consider stakeholder submissions made in 2020 to ensure that our recommended levy is as fair, efficient and affordable as possible.

We plan to adopt a 4-step approach to calculating the levy:

- 1. Determine DSNSW's efficient costs** – In this step, we will assess DSNSW's efficient costs for providing its services under a 'business as usual' scenario. In doing so, we will consider:
 - DSNSW's budget for 2022/23.
 - DSNSW's capacity to scale up and recoup costs, given many operations and processes associated with its new regulatory regime (introduced in 2019) are still under development.
 - What future costs are appropriate to be recovered via the levy (including the extent to which they relate to declared dams).
 - Whether any efficiency targets should be applied to DSNSW's costs.
 - How DSNSW's costs compare to those of other authorities administering similar regulatory regimes.
- 2. Develop a methodology to recover these costs** – This step will involve determining an administratively and economically efficient method of recovering DSNSW's costs via a levy. In designing it, we will consider:
 - The need for clear, cost-reflective and efficient outcomes.
 - Best practice for cost recovery applied in other jurisdictions.
 - The need for a levy to be straight forward to understand and administer.
 - The need for the levy to be adjusted over time as costs/services change.
 - Whether certain costs should continue to be recovered via government funding (including for instance, costs that are not directly related to declared dams).
- 3. Calculate the levy payable by dam owners** - Once we have determined efficient costs and a method to recover these costs, we will calculate the quantum of the levy payable by each type of dam. To do so we will consider:

- How best to apportion fixed and variable costs to types of dam owners based on a range of factors such as the size, consequence category, purpose or number of dams that they own.
 - Affordability, including the potential impact of the levy on smaller dam owners and local government.
 - The ability for dam owners to recover these costs from relevant customers or communities serviced by the dam.
 - Whether there is a need for ongoing government funding for dams that provide services to the broader community.
 - Implementation issues including how the levy could be phased-in over time.
- 4. Make recommendations for the future** – Finally, we will make recommendations to the Government on matters that may improve the calculation or implementation of the levy in future years, including:
- Information that DSNSW could collect in future with the aim of refining the calculation or application of the levy.
 - Possible subsidies that the Government could consider to help ease the impacts of the levy on smaller dam owners.
 - Methods to enable dam owners to recover the costs of the levy through their end-users.

We want to hear from you

We want to hear from owners of declared dams and any other interested stakeholders. Questions that we would like stakeholder input on include:

- How would this levy impact your operations and ongoing delivery of services?
- Does DSNSW conduct any activities that are broader than dam safety and therefore should sit outside the levy?
- Do you expect that the regulatory support you require from DSNSW will reduce as dam owners get more familiar with the new regulatory regime?
- How the levy should be apportioned between different dams or dam owners?
- Is your dam's primary purpose to serve the broader community beyond your customers/ratepayers?
- How can dam owner regulatory performance be recognised in the levy over the longer term?
- How we can minimise issues of affordability and disruption during implementation (for instance, a gradual levy phase-in)?
- Should the levy be subject to periodic independent review?
- Any other issues you feel are relevant.

 Have your say

We welcome feedback on the issues raised above or other matters related to this review.

[Submit feedback »](#)

Our review process



IPART is currently seeking stakeholder views on the above issues, with submissions to this paper due by 16 April 2024. We will consider all stakeholder feedback when preparing our Draft Report, which we expect to release in June 2024.

There will be further opportunities to provide your views as the review progresses. We will consult on the Draft Report once it has been released and we will hold a Public Hearing in July 2024. Our Final Report will be informed by our stakeholder consultation. We will provide our Final Report to the Government in September 2024 for consideration.

Stakeholders who would like to be notified when relevant material is released can subscribe to receive updates from IPART on our website: <http://www.ipart.nsw.gov.au>