

10 April 2024

Independent Pricing and Regulatory Tribunal  
By Email: [ipart@ipart.nsw.gov.au](mailto:ipart@ipart.nsw.gov.au)

Dear Sir

**Re: Submission to Dam Safety NSW Levy Review**

Thank you for the opportunity for Clarence Valley Council (CVC) to make a submission to the Dam Safety NSW Levy Review. CVC considered the dam safety levy at its meeting of 26 March 2024 and resolved (Resolution 05.24.005):

*That Council make a submission to the IPART Dam Safety Levy Issues Paper reiterating the issues raised in its previous (November 2020) submission.*

CVC is both a medium sized local water utility (LWU) and a general-purpose Council. While currently CVC's only declared dams are for water supply purposes, Council may potentially inherit additional flood mitigation structures from developers such as retarding basins which could be of sufficient size to be declared dams.

Floodplain and drainage dams are owned by the General Fund of Councils, and the ability of Councils to raise additional rates revenue is limited by the annual IPART rate pegging. The IPART rate pegging is set on a statewide basis and does not consider cost shifting from the State Government incurred during the year such as a dam safety levy. The State Government has previously required Council's to become "Fit for the Future", but a dam safety levy imposed on Councils would represent further cost shifting. For any declared dams owned by the General Fund the cost of a dam safety levy could only be met by a consequent reduction in expenditure in other areas, which would result in a lower level of service to the ratepayers.

When Dam Safety NSW originally proposed a levy in 2020, their proposed funding arrangements were based solely on the dam consequence category. Basing a dam safety levy solely on the dam consequence category does not consider the public benefit provided by the dam structure.

It is recommended that the proposed dam safety levy should consider whether the prescribed dam structure is owned by a "for profit entity" or is providing a public benefit. Where there is a public benefit from the dam (such as for flood retarding basins), ideally there should be no dam safety levy imposed and the cost be provided by the State Government as a Community Service Obligation. Alternatively, if cost recovery using an industry funding model is to be followed, the foregone revenue from "public benefit" dams could be met by an increase in the proposed levy on the "for profit" dam owners.

CVC's LWU functions are classified as Category 1 businesses under the OLG's *Pricing and Costing for Councils Businesses – A guide to Competitive Neutrality* and would therefore be considered as a "for profit" entity. While a Council's LWU functions are not subject to rate pegging and hence the additional cost of the proposed dam safety levy for water supply dams would be able to be passed on to its water customers, this does not recognise the different sizes in water utilities and the number of declared dams which they may own. While CVC as a medium size water utility is in the fortunate position of having 22,000 customers and 2 declared dams, there are many small water utilities where the impost on their customers would be much more significant. For example, two of the utilities which adjoin Clarence Valley and have declared dams are Tenterfield Shire Council (~2000 customers) and Glen Innes Severn (just under 3000 customers). The cost per customer for the proposed dam safety levy on smaller LWUs is potentially therefore much higher. It is not considered equitable that Central Coast Council (with nearly 130,000 customers) or Water NSW for the Greater Sydney dams would pay the same levy as a small LWU such as Tenterfield or Glen Innes. If an industry funding model is to be followed, again a differential levy could be applied to declared water supply dams to recognize that there is a much higher cost impost on the smaller LWUs.

If the proposed dam safety levy is based on the dam consequence category as per the original Dam Safety NSW proposal, one issue which needs to be considered is if a future risk assessment decreases the hazard rating will the dam owner will be reimbursed what has been a levy overpayment due to the previous "incorrect" hazard rating? Generally, a dam's hazard rating is only reviewed around every 15 years, and dams that were constructed prior to the formation of Dam Safety NSW had their hazard rating determined by the Dam Safety Committee rather than the risk-based approach in the current legislation. One of CVC's declared dams for example was assessed as "extreme" based on a scenario which has a conjunctive probability which is so low as to be considered near zero. CVC is currently reviewing its declared dam hazard ratings and it is possible the hazard classification would change from the current "extreme" category.

Thank you again for the opportunity to make this submission to the proposed Dam Safety NSW levy. If you have any questions regarding this submission, please contact [REDACTED]

Yours faithfully

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