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

Dear Xanthe,

Thank you for the opportunity to provide a response to IPART's 'Designing a levy for regulating dam safety in NSW' Issues Paper, released on 19 March 2024. We submit this letter as our formal response to IPART's Issues Paper.

Sydney Water currently manages 16 'declared dams' within our area of operations, including Manly Dam, ten reservoirs and five stormwater detention and retarding basins in Rouse Hill.<sup>1</sup> Our dams store water for our customers, provide flood mitigation, and also serve as community infrastructure and recreational space. This makes it critical for Sydney Water to protect people, property and the environment around the dams we manage.

Our current dam safety legislation, which includes the *Dams Safety Act 2015* (NSW) and the *Dams Safety Regulation 2019* (NSW), provides a framework and standards to minimise the risks associated with dams and provide a strong level of safety to the community. Under the Act, Dams Safety NSW (DSNSW) is the key regulator responsible for ensuring dam owners manage the safety of 'declared dams' in NSW.

In its Issues Paper, IPART has proposed an approach for determining a dams safety regulation levy to recover DSNSW's efficient costs and set out a number of questions seeking stakeholder input.

In general, we are supportive of IPART's proposed approach to calculating the levy, including IPART's consideration of design principles such as cost-reflectivity, efficiency and administrative simplicity and factors, such as affordability and cost recovery, impacting the future implementation of the levy.

We have not sought to provide a response to each of IPART's questions. Instead, we have provided comments on some areas of interest to Sydney Water below.

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<sup>1</sup> We note that a range of structures, such as weirs, off-river storages, retarding basins, reservoirs and tailings dams, are classified as dams in accordance with the *Dams Safety Act 2015* (NSW) and the *Dams Safety Regulation 2019* (NSW).

## DSNSW's role and activities

DSNSW plays an important role, monitoring our compliance and other declared dam owners' compliance with the *Dams Safety Act 2015* (NSW) and the *Dams Safety Regulation 2019* (NSW). It engages in a range of activities with declared dam owners, including:

- running a risk-based audit program with compliance priorities determined by dam consequence category and other risk factors,
- performing risk-based inspections,
- managing reporting, including incident reporting and notifications of proposed change, and
- organising seminars, publishing guidelines and providing training resources to share regulatory information and industry insights, and promote best practice.

We consider that these activities are relevant to dam safety and are within the scope of the dams safety regulation levy.

We further expect that DSNSW's activities and the level of regulatory support we have received from DSNSW to date will continue to be necessary to ensure compliance and safety in our dam operations. In particular, the need for support from DSNSW in auditing, reporting, liaising with other government stakeholders and sharing best practice guidelines and up-to-date resources will likely remain similar over time.

## Impact of the levy on our operations and ongoing delivery of services

Based on the initial range of the annual levy calculated by DSNSW in 2020 (from \$5,048 to \$16,923 per dam), we anticipate that the levy would not have a significant impact on our operations and ongoing delivery of services.

Currently, our costs associated with managing our dams and bulk water purchases are already included in our operational expenses. The introduction of a dams safety regulation levy on 'declared dams' would likely impose an additional, but relatively small, cost to Sydney Water, which we would seek to include as an item in our upcoming price submission for the 2025-30 determination period.

We note that there may be additional, indirect costs to Sydney Water, from WNSW potentially passing on its dams safety regulation levy costs to Sydney Water through IPART's determination of WNSW's bulk water charges for the Greater Sydney area.<sup>2</sup> Where relevant, we would also seek to recover these costs in our upcoming price submission.

While the levy may not have a significant impact on our operations and service delivery, we recognise that it could potentially have a much greater impact on smaller dam owners and local government.

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<sup>2</sup> We work in partnership with Water NSW, which supplies much of the untreated raw water from rivers and dams. Water NSW manages eleven major dams and reservoirs (21 declared storage dams) that provide drinking water to Greater Sydney.

## Calculating the levy

Under the current dam safety legislation, each declared dam has a consequence category, ranging from 'Very Low' to 'Extreme'. Declared dams have an additional societal and individual risk rating, incorporating their consequence rating with a likelihood or frequency of failure estimate, which results in a risk above or below a given 'safety threshold'.

As a first principle, we consider that there should be a tiered approach to the calculation of the dams safety regulation levy, based on the consequence category of the relevant declared dam. For each 'consequence category' tier, the base levy payable should correspond to the expected level of regulatory scrutiny and support from DSNSW. Lower consequence dams, for example, would typically require less regulatory support from DSNSW and should be subject to a lower levy. In contrast, dams classified as 'High' or 'Extreme' should be subject to a relatively higher levy, in line with the greater regulatory scrutiny, monitoring and support they would require from DSNSW, and higher again for dams above the safety threshold.

Again, we note that the levy may potentially have a greater impact on smaller dam owners and local government, which would need to be taken into account in IPART's calculation of the levy.

## Implementation and review of the levy

We recognise that a key challenge of implementing the levy will be affordability of the levy, particularly for smaller dam owners and local government. It will be important for IPART to take into account the ability of different dam owners to pay for and recover these costs from relevant customers or communities serviced by the dam.

We believe that there would be value in having the levy be subject to periodic independent review. As DSNSW continues to ramp up its regulatory functions, it may be appropriate to review the levy every 5 years, with the aim of assessing the efficiency and prudence of DSNSW's costs, whether the levy scheme is effective and impacts on dam owners.

We look forward to reading the views of other stakeholders in their submissions to IPART's review. If you would like to discuss these matters further, please contact Michael English,

[REDACTED]

Yours sincerely,

[REDACTED]

**Monika Moutos**  
**Head of Economics & Regulation**