Snowy hydro response to the NSW Dams Safety Review

We would like to thank you for the opportunity to respond to the NSW Dams Safety Review,

Please find below our comment about the recommendations contained within the KPMG report.

Recommendation 1:

The Act should be amended to provide clarity in relation to the objectives of the legislation and the role and powers of the dam safety regulator. The objective should be to achieve socially acceptable levels of public safety risk in relation to stored waters in NSW and the regulatory framework should enable risk management to be achieved in the most efficient manner possible (i.e., consideration being required to be given to the broadest range of relevant operational strategies and thereby avoiding a singular focus on dam engineering solutions).

Snowy Hydro comment:

We agree with this recommendation.

We note and agree with the comment that a broad range of operational strategies should be considered to efficiently achieve acceptable risk levels. In that context, we assume that in other parts of this report that refer to ‘dam safety upgrade strategies’ and similar terms, it is taken that the strategies in consideration are not limited to requiring physical changes or ‘upgrades’ to the dam itself. We suggest that the Term “dam safety upgrade strategies” be rephrased as “dam safety improvement strategies” and consistently applied throughout the document.

Recommendation 2:

The dam safety regulator should be responsible for monitoring the compliance of dams with standards and guidelines. The regulator should determine the level of monitoring necessary for each dam based on the likelihood of non-compliance.

Dam owners should be responsible for compliance with standards and guidelines. The regulator should not be involved in the development of compliance strategies or in identifying particular dam safety upgrade strategies. Dam owners should report to the regulator annually on the level of compliance being achieved by their maintenance and upgrade programs.

If dam owners do not comply with standards, the regulator should have clear powers to compel dam owners to implement changes necessary to meet required standards and guidelines.

Snowy Hydro comment:

We consider it important that the standards and guidelines adopted are risk-based standards and guidelines and avoid the prescription of particular engineering solutions. Prescriptive
standards and guidelines alone would perpetuate the over-investment in engineering measures which the report notes to be undesirable.

We support a process whereby prescriptive technical standards are available as a ‘fall back’ position that can be adopted by a dam owner if it is unable or unwilling to demonstrate compliance with risk-based standards. This approach would be useful for small dams whilst allowing for a more complete risk-based decision to be taken for large dams.

We agree that dam owners should be responsible for compliance with standards and guidelines.

**Recommendation 3:**

The government should change the composition of the dam safety regulator so that it:

- is independent of the businesses it regulates;
- is composed of representatives of relevant government agencies to ensure integration, complementarity and efficiency in risk reduction strategy development (for example, NSW Treasury, Department of Planning and Infrastructure, Department of Trade and Investment Resources and Energy and the NSW State Emergency Service (SES); and
- has relevant independent expertise, including dam engineering, public safety risk management and benefit cost analysis

**Snowy Hydro comment:**

We agree with the recommendation to broaden the expertise available to the dam safety regulator.

We consider it important that the relevant expertise to which the regulator has access must include dam operations expertise as well as dam engineering expertise.

We believe it will be difficult to source truly independent dam engineering expertise because the pool of such expertise in NSW and Australia generally is relatively small. Many of the persons having that expertise are, or have been, directly engaged in engineering design, risk assessments, safety reviews or other work concerning safety of dams in NSW but may have limited exposure to the operational aspects of dams.

We also believe that due to the reasons identified above that there is a risk that “independence” will result in a lack of expertise, and the imposition of conservative asset based solutions that the review was designed to eliminate rather than the risk based solutions that do deliver the stated aim.

The existing system of subcommittees established by DSC provides access to this relevant expertise outside the expertise of the regulator and its staff, although the existing system does rely on in-kind funding by the organisations employing sub-committee members. This access is essential and needs to be maintained either via the existing sub committees or similar.
Recommendation 4:

It is recommended that the dam safety regulator be funded by relevant risk creators, which in this case are all the owners of prescribed dams in NSW.

Snowy Hydro comment:

We do not agree with this recommendation, because the report:

- does not describe the likely total quantum of dam safety regulation costs that might be passed on to dam owners;
- does not provide any basis or principle which could be used to fairly apportion dam safety regulator costs to individual dams or dam owners; and
- does not contemplate the structures or control measures that might be introduced to ensure cost of dam safety regulation is proportionate and managed so that increasing regulation costs are not accepted simply on the basis that they can be passed on to dam owners.

Recommendation 5:

The regulator should be required to achieve high levels of public transparency with respect to the basis of its regulatory standards and the respective roles of dam owners versus government. This transparency will make clear the legal liability of dam owners and in so doing encourage levels of private investment in dam safety that align, as far as possible, with the risk preferences of the broader community.

Snowy Hydro comment:

We agree with the recommendation for high levels of public transparency about the basis of regulatory standards.

We consider the requirement for transparency should be extended such that when the dam safety regulator makes a decision or issues a direction about a particular dam, the dam safety regulator should be required to provide a detailed report to the dam owner about its decision-making process and the information it considered in making its decision.

Recommendation 6:

Where the dam safety regulator proposes changes to dam safety regulation, these changes should be subject to consultation with dam owners. Best practice principles suggest a consultation phase of at least 28 days.

Snowy Hydro comment:

We agree with this recommendation.

Recommendation 7:

The dam safety regulator should consider the views of industry and other stakeholders when making final decisions to implement changes to dam safety regulation. When reaching its decision, the regulator should release a report explaining its decision-making process and the information it considered in making its decision.
Snowy Hydro comment:
We agree with this recommendation.

Recommendation 8:
The NSW Government should seek comment from the community on its willingness to accept the risk of dam failure and the appropriate level of dam safety investment. Community feedback should be considered when the regulator sets safety standards for dams. This should be reviewed periodically to ensure that safety standards continue to be consistent with community expectations. This outcome could also be achieved through high levels of transparency with respect to benefit cost analysis to identify efficient risk reduction strategies, with community input encouraged to that process.

Snowy Hydro comment:
We agree with this recommendation.

We consider it important that community risk arising from presence of stored waters should be assessed on the same basis as community risk arising from other non-dam sources.

Recommendation 9:
Consideration by a dam owner of whether a potential dam safety investment is appropriate should explicitly include assessment of the benefits and costs of the proposed investment and alternate options to reduce the public safety risk associated with stored waters.

Snowy Hydro comment:
We do not agree with this recommendation.

We are concerned that broad cost benefit analysis without understanding the context of the analysis is often confusing and ambiguous.

In particular we note that:

- the ANCOLD risk assessment guidelines already provide a framework that contemplates the benefits and costs of potential dam safety management strategies;
- it is unclear how an individual dam owner could access the data needed to meaningfully conduct a broader benefit cost analysis, particularly if the dam owner is not a public (i.e. NSW state-owned) organisation; and
- the cost of conducting a broader benefit cost analysis is likely to be high and it is not shown that the increased cost would produce a better dam safety outcome than does the application of the existing ANCOLD risk assessment guidelines;

We believe this area of the current ANCOLD guidelines adopted by DSC is clear and works well. We do not believe that this change is required and will potentially be detrimental to the effective assessment of requirements.

Recommendation 10:
A systematic and proactive approach should be implemented to inform dam owners of potential developments downstream from their dams that could influence the consequence
category of their dams and the cost of complying with public safety requirements. The approach should be incorporated into the planning approval process or through an alternate process considered appropriate by the NSW Government.

**Snowy Hydro comment:**

We agree with this recommendation.

**Recommendation 11:**

The NSW Government should consider options to address dam safety considerations much earlier in the planning approval process, particularly for state significant developments and state significant infrastructure.

**Snowy Hydro comment:**

We agree with this recommendation.

We note that even small-scale development downstream of a dam can in some circumstances cause a significant cost to the dam owner and therefore any changes made in planning approval processes should not be limited in application only to state significant developments and state significant infrastructure.

**Recommendation 12:**

The NSW Government should seek public comment on:

- whether the regulator’s role in the approval of mining near prescribed dams is clearly defined; and
- whether the dam safety regulator should consider the economic impacts of water loss due to mining activities or whether the dam safety regulator should only be concerned with the safety of the prescribed dam.

**Snowy Hydro comment:**

We agree with this recommendation.

**Recommendation 13:**

The NSW Government should consider whether the dam safety regulator or another government agency should be required to approve Dam Safety Emergency Management Plans (DSEPs). The relevant agency should have sufficient resources to make such assessments.

**Snowy Hydro comment:**

We do not agree with this recommendation because we consider that development and distribution of DSEPs should simply form part of the standards and guidelines with which dam owners are generally required to comply.

We note that in our experience neither the DSC nor the NSW State Emergency Service currently has the resources to contribute to, or comment on, DSEPs.
Recommendation 14: 

The NSW Government should evaluate whether existing DSEP trigger points for alerts result in unnecessary evacuation warnings.

Snowy Hydro comment:

We agree with this recommendation.

The basis for defining DSEP trigger points is currently poorly defined and quite difficult to interpret and apply to individual dams. We are aware of, and support, work which has been commenced jointly by DSC and NSW State Emergency Service to develop improved guidelines for developing DSEP trigger points and consider that work should be completed.

If you have any questions or require clarity regarding these responses then please do not hesitate to contact the undersigned.

Regards

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