

Council Reference:  
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**TWEED**  
SHIRE COUNCIL

05 November 2013

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Dams Safety Review  
NSW Trade and Investment  
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Please address all communications  
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Dear Sir/ Madam

### **Feedback on NSW Dam Safety Review**

Thank you for the opportunity to comment on the report into the review of the Dams Safety Act 1978 and the Dams Safety Committee. Council manages one regulated water storage dam and has one site for a potential future dam.

In general:

1. Council agrees that implementation of dam safety upgrades have resulted in some very small reductions in risk being achieved at a disproportionate cost
2. Council is strongly opposed to any attempt to “dumb down” the DSC which may result in a loss of dam expertise, expert advice and the ability to make professional judgements and decisions
3. Council is strongly opposed to an under resourced regulatory approach such as used in Victoria. This type of approach is being used by other agencies such as the NSW Office of Water in the licensing and regulation of sewage reuse schemes, and has resulted in indecision, increased costs, delays, and the abandonment of projects due to a lack of technical leadership and clear decision making on the part of the regulator.
4. Council is concerned the KPMG review supports the Victorian DSE approach without explaining its performance – in particular whether Victorian dam owners and stakeholders are satisfied with the DSE’s performance.
5. Council supports inclusion of a risk expert in the regulator, however this expert should be available to provide dam owners with constructive and practical advice rather than creating additional issues for dam owners to address.

Council provides specific input to the recommendations, below:

#### **Recommendation 1**

Council agrees with the intent of this recommendation. The regulations should not be too prescriptive as this will hinder a true risk based approach.

## **Recommendation 2**

For this recommendation to work Council believes there would need to be a license for each dam. The regulatory body will need sufficient technical expertise to manage licences. To determine and change level of monitoring necessary, answer license questions and review the content of annual reporting requires dam expertise to ensure the regulator is not just an administrative role.

Council would be satisfied with a “dam license” approach and understand there would be a fee involved for the regulator to oversee the licence with a technical view. The expectation is a license provides clear guidance on what each dam owner has to do similar to an Environmental Protection license for operation of sewerage treatment plants.

The regulator should inspect dams at agreed intervals based on the risk of the dam and this should be reflected within the fee. Council has recently needed to engage a consultant to carry out this task as the DSC ceased this work. The inspection interval does not have to be regular but should be based on the risk of each dam and therefore the fee would need to be based on the safety risk of the dam.

## **Recommendation 3**

Council agrees that the dam safety committee should be independent from the asset owners. The asset owners need to have assurance that the committee will be able to help rather than penalise, make decisions with due flexibility and be fair. This will only occur with sufficient technical resources on the committee and it is our view that the committee members should be heavily weighted in this area.

Council believes the regulator should include a representative from NSW Public Works (in the Department of Finances and Services) to provide the type of independent expert advice and relevant engineering expertise highlighted as a necessity by the KPMG review.

## **Recommendation 4**

Council agrees the cost should be funded by the asset owners it will benefit. However, the asset owner needs to clearly see the benefits it is paying for. This should include regular inspection by a technically qualified committee member. The amount of the payment that each dam owner should pay obviously needs to be based on the safety risk the dam poses.

## **Recommendation 5**

Agreed.

### **Recommendation 6**

Agreed that changes should be consulted and a 28 day minimum set, noting some items may need significant more time for dam owners to understand and make valid submission. In addition, after the consultation period the dam owners should be further informed on the feedback received and whether it impacted on the proposed changes. This would demonstrate that the submissions were actually read and considered.

### **Recommendation 7**

See above for comment.

### **Recommendation 8**

Council has concerns that this approach moves the “grey area” from the definition of DSC objectives to the definition of what constitutes a “reasonable” investment to improve dam safety.

Council agrees in principal that the community’s concerns should be considered, however there are issues with the practical reconciliation of actual risks and community appreciation and acceptance of dam safety risks.

In general, for dams that have a very minute risk of failure Council agrees that some discretion should be allowed. For dams at higher level of risk / consequence the regulator should have the power to require its upgrade.

### **Recommendation 9**

Council agrees that the dam owner should not be forced into costly upgrades without due consideration of other options or do nothing option, unless the dam risk is sufficient for the regulator to require upgrade.

### **Recommendation 10**

Council believes DP&I should provide a documented system on when and how it is appropriate to provide comment on proposed development downstream from dams. Alternatively, such development may require concurrence from the regulator through an integrated development system or similar.

### **Recommendation 11**

Agreed. Importantly, state government should liaise with dam owners to ensure their requirements are considered – including any increased compliance costs.

**Recommendation 12**

No comment.

**Recommendation 13**

The existing guidelines and templates for creation of a DSEP are well developed. The dam owner should have to satisfy the regulator that its DSEP is sufficient, has been agreed to by the relevant parties involved and has communicated and educated the downstream population. This will require resources within the regulator. Under a licence approach, the DSEP should be audited as part of the inspection of the dam.

Agreed, the regulator must have relevant resources and expertise to undertake review of DSEPs.

Strongly disagree that a second government agency should review and approve DSEPs. This should all be in one set of hands to ensure consistency and avoid dealing with two different bureaucracies.

**Recommendation 14**

The DSEP should not unnecessarily alarm public. The dam owner and SES typically use their judgement to ensure this is the case. The regulations need to recognise this, and consider that trigger levels are normally based on the worst case event and time intervals. Consideration of lesser events would enable the dam owner and SES decision makers to change or delay trigger alerts based on the actual characteristics of each event.

Yours Faithfully



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Manager Water