

RESPONSE TO REVIEW OF THE DAMS SAFETY ACT 1978 AND DAMS SAFETY COMMITTEE

SUBMITTED BY:
STEWART MCLEOD
CHAIR, WATER DIRECTORATE INC.
5 NOVEMBER 2013

Stewart McLeod



**WATER
DIRECTORATE**

5 November 2013

Dams Safety Review
NSW Trade and Investment
GPO Box 5477
SYDNEY NSW 2001

Submission to the Review of the *Dams Safety Act 1978* and Dams Safety Committee

Dear Mr Bloxall

The Water Directorate welcomes the opportunity to make a submission to NSW Trade and Investment Regional Infrastructure and Services on the KPMG Review of the *Dams Safety Act 1978* and Dams Safety Committee.

It is unfortunate that the comment period is relatively short resulting in less than ideal time for providing a coordinated response from our membership of 97 local water utilities from around NSW. The Water Directorate's mission is to provide leadership, advice and support to the local government water supply and sewerage industry in regional NSW.

The Water Directorate membership supports the need for the NSW Dams Safety Review in the interests of improvements in safety, security, risk management and expert guidance.

The current regulatory arrangements are inconsistent in application, create confusion regarding roles and responsibilities, and limit the ability of local water utilities to deliver the best outcomes for the community.

The Water Directorate overwhelmingly supports improvements in safety, security, risk management and expert guidance.

The Water Directorate:

- Supports the removal of regulatory duplication and inconsistencies across the dams safety sector
- Supports the DSC having a balance of representatives of NSW Government Agencies and dams owners
- Welcomes the opportunity for further discussion on the opportunities to regulate dams safety in NSW.

The Water Directorate would like to extend an invitation to meet with NSW Trade and Investment to discuss opportunities and limitations of possible regulatory models for dams safety in NSW.

Yours sincerely



Gary Mitchell
Executive Officer

The Water Directorate

The Water Directorate is a voluntary member based organisation that represents 95% of all NSW local water utilities. Its mission is to provide leadership and advice to local water utilities. Our members:

- provide 89% of reticulated water outside metropolitan NSW
- manage \$23 billion in assets
- have 3.2 times more customers than Hunter Water

The Water Directorate was initiated by local government water and sewerage practitioners in 1998. Our founding members recognised that the structure and legislative framework for water authorities in NSW was not ideal following the abolition of the Department of Public Works which had previously acted as the overall co-ordinating agency and mentor for regional NSW. An industry specific association was formed to address the lack of coordination between government departments and local authorities as well as the declining level of technical advice provided by the state agencies.

Since our establishment the Water Directorate has provided consistent state-wide management tools at a low cost to our members. As a result we have:

- invested more than \$3.5 million on developing relevant guidelines and technical documents to support industry best practice
- co-managed an \$8.73 million investment by the Federal Government and members in a water loss management program saving 5.5 billion litres of water annually
- advocated for local water utilities, for example, responding to the Armstrong/Gellatly Review, and a whole series of other Government reviews undertaken by Infrastructure Australia, the National Water Commission, the Productivity Commission, Infrastructure NSW and the Local Government Acts Taskforce
- supported the industry with valuable information through on-line discussion groups, technical workshops and informal mentoring not provided by State Government departments.

This submission was developed at a recent open invitation Dam Owners Workshop for member councils plus contributions from our Dams Sub-committee on the 14 recommendations raised in the Community Consultation Paper the KPMG Final Report. This submission includes representations from seven local water utilities that own and operate dams. This response has been prepared in the very short timeframe provided by the Review.

Recommendation 1, 2 and 5 to 14

General agreement.

Recommendation 3

Dams safety should be regulated by a Dams Safety Committee (DSC) that is a statutory body representing the Crown. The regulator could be suitably combined with the NSW Office of Water to reduce duplication of roles and responsibilities.

The DSC should comprise a balance of representatives from NSW Government agencies, as suggested in Recommendation 3, plus representatives of dam owners in NSW. The DSC should be chaired by a nominee of the responsible State Government Minister. The DSC should include a number of representatives from dam owners so that their viewpoint can be considered by the whole committee.

Each of the five key prescribed dam owner groups should have a representative on the DSC. The representatives should be nominated from the key industry bodies for each group where possible. A representative from dam owners such as local government and mining companies should be included to ensure the views of owners are at least considered by the regulator. The local government representative would be drawn from senior staff with dam operating expertise nominated by the Water Directorate.

The DSC should be serviced by staff holding expertise in dams safety engineering and administrative skills to ensure that the resolutions of the DSC are enacted. The Water Directorate believes that it is important to maintain relevant dams engineering expertise in the DSC and that the DSC shouldn't be de-engineered. The Water Directorate believes that it is important for the DSC to provide advice and guidance to the owners of prescribed dams, many of which have little/no in-house ability to manage such information, particularly associated with how to ensure compliance with relevant Australian & International Standards, Best Practice Guidelines, etc.

Recommendation 4

General rejection on the basis that it is the responsibility of NSW Government to continue to fund regulatory bodies and this would be clear cost shifting by the NSW Government to both local government and other prescribed dam owners.

There are clear improvements in efficiency in the NSW Government that can be achieved in the area of Local Government dam regulation that can offset the cost of the DSC. At present, Local Government dam owners are regulated by both the DSC and the NSW Office of Water. The role of the NSW Office of Water in giving Section 60 approval is unnecessary and imposes both a cost and time penalty on the dam improvement and construction process. Approvals, monitoring and concurrence of dams safety matters should be the responsibility of the DSC only.

The main focus of the Review appears to be to reduce/eliminate NSW Government responsibility and cost. NSW Government should not be entitled to control and policing of dams safety without any responsibility or cost for dams safety. The regulator could be funded by the State Departments that make up its membership. Dam owners already incur significant costs in operating dams to address key risk issues.

An annual fee might be considered provided the regulator delivers at minimum the annual inspection reports, and retains the technical expertise to adequately assess compliance. There are concerns about how this recommendation if adopted would be implemented. Key questions include:

- How would contributions be calculated?
- What would be the total amount of income raised?
- Would this income be quarantined so that it could only be use to offset appropriate expenses incurred by the regulator?
- Is the NSW government going to subsidise the cost and if so to what level and for how long?
- What mechanisms would be included for example review by IPART so that changes levied are appropriate?
- How to stop local water utilities paying twice – as in purchases of water from State Water?

Additional Comments

In addition our member councils have suggested the following outcomes and actions:

- Closer relations between the DSC and ANCOLD are advisable with representation on ANCOLD being capable of reflecting the views of dam owners.
- The Department of Infrastructure and Heritage, which partially funds flood studies for councils should require that funded flood and risk management studies include dam break outcomes for those catchments where a sizeable dam is present and is likely to impact flooding in the study area.
- Eliminate the current requirement for approval by the Department of Fisheries to work on upgrading a dam, strengthening the dam structure and with no affect on either the upstream reservoir or the flow over the dam.

Funding requirements for the upgrading of dams is extremely onerous for some owners. The NSW Government should be approached for a budget that would enable the DSC to provide grants to partial fund upgrading work for those owners when the cost of the work would impose an intolerable burden on the local community.

A name change from Dams Safety Committee (DSC) to the Dams Safety Authority has been suggested to reinforce its status as a regulator. A name change following this review would be timely, appropriate and significant. A name change would help clarify that the body is a statutory authority which convenes various committees made up of various dam ownership groups, to consider dams safety risk matters. The existing name is confusing and misleading.

Conclusions

The Water Directorate:

- Thanks the Dams Safety Review for the opportunity to provide input to the dams safety review process in NSW.
- Supports the removal of regulatory duplication and inconsistencies across the dams safety sector.
- Supports the Dams Safety Committee having a balance of representatives of NSW Government agencies and dam owners.
- Welcomes the opportunity for further discussion on the regulation of prescribed dams safety in NSW.