

# Frequently Asked Questions

## Proposed changes to Dams Safety Regulation 2019



July 2021

These Frequently Asked Questions should be read in conjunction with the Summary of Proposed Changes.

### Who is Dams Safety NSW?

Dams Safety NSW is the independent regulator with responsibility for the safety of declared dams in NSW.

Established on 1 November 2019, under the *Dams Safety Act 2015*, Dams Safety NSW makes decisions on how the legislation is administered.

### What are the proposed changes to the regulation?

The proposed changes are that:

- a) a declared dam owner will be required to provide the details of a contact person to Dams Safety NSW
- b) a declared dam owner will be required to nominate an individual for ensuring compliance with the dam safety management system
- c) a competent person will be required to carry out risk rating calculations (competency is currently not specified)
- d) for high and extreme consequence dams, an independent competent person will be required to review risk rating calculations (a review is currently not required)
- e) for high or extreme consequence category dams a panel of competent persons will be required to:
  - i. undertake safety reviews
  - ii. undertake a review of safety reviews
  - iii. check work involving dam designs(currently a single competent person is specified for the above reviews and checks).
- f) minor changes and clarifications are made to:
  - i. correct an error in the regulation that omitted 'environment' [from clause 12 (2) of the regulation] as one of the safety goals for the design of the dam safety management system and
  - ii. clarify that, for an existing dam, the lower safety threshold value for societal risk of 0.0001 applies to a major augmentation, not all major modifications.

### Nominating a contact person

#### Why is Dams Safety NSW proposing that a declared dam owner provide Dams Safety NSW with the name and contact details of a contact person?

In some instances, Dams Safety NSW has found it difficult to find the right person to talk to about a particular declared dam. This has been largely due to organisational personnel changes.

In case of an emergency, delays in being able to contact the right person could put people at risk.

Maintaining up-to-date details for a contact person for Dams Safety NSW would ensure that the Act and regulation can be administered efficiently and safely.

#### Would the contact person need to be part of the dam owner's organisation?

Yes, the contact person needs to be part of the declared dam owner's organisation. In some cases (for example privately owned dams), the declared dam owner could be the contact person.

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### **Would a single contact person be allowed for more than one declared dam?**

Yes, a declared dam owner would be able to nominate a single contact person for more than one declared dam.

### **How would I notify Dams Safety NSW of the contact person's details?**

Email Dams Safety NSW at [info@damsafety.nsw.gov.au](mailto:info@damsafety.nsw.gov.au) or call (02) 9842 8073.

### **What if the contact person, or their contact details, change?**

Email Dams Safety NSW at [info@damsafety.nsw.gov.au](mailto:info@damsafety.nsw.gov.au) or call (02) 9842 8073.

### **How soon do I need to notify Dams Safety NSW after a change in contact person or their contact details?**

A declared dam owner would need to notify Dams Safety NSW of the change within 14 days.

## **Nominating an accountable individual for the dam safety management system**

### **Why is Dams Safety NSW proposing that a declared dam owner nominate an accountable manager for the dam safety management system?**

Part 5 of the regulation requires a declared dam owner to implement a dam safety management system for the dam. The owner must maintain the dam safety management system so that it remains effective.

By nominating an accountable individual for the dam's safety management system, the dam owner would:

- ensure that a person has the responsibility for ensuring compliance with the dam safety management system
- provide Dams Safety NSW with a person who can discuss the maintenance of the dam safety management system
- have a person who would receive reports and notifications about the dam safety management system from Dams Safety NSW.

### **What does an accountable individual do?**

The individual acts on behalf of the owner and has responsibility for ensuring compliance with the dam safety management system.

### **Does other legislation require an accountable individual?**

Yes. Other legislative frameworks, such as for work health and safety, include requirements for contact details to be provided to the regulator. The need for an accountable executive, who has accountability for the implementation and maintenance of the system, is also used in international legislative frameworks for safety management systems.

### **Would the accountable individual need to be part of the dam owner's organisation?**

Yes, the individual needs to be part of the declared dam owner's organisation. In some cases (for example privately owned dams), the declared dam owner would be the individual nominated in the dam safety management system.

### **Would a single accountable individual be allowed for more than one declared dam?**

Yes, a declared dam owner would be able to nominate a single accountable manager for more than one declared dam.

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### **How do I nominate the accountable individual?**

The regulation requires a declared dam owner to produce a dam safety management system document. The name and contact details of the accountable individual would be listed in the dam safety management system document.

### **What if the accountable individual changes, or their contact details change?**

The dam safety management system document for a dam would need to be updated within 14 days after a change in the name or contact details of the individual responsible for ensuring compliance with the dam safety management system.

## **Requirement for competent persons and competent panels**

### **Why is Dams Safety NSW proposing that a competent person carry out assessments of societal and individual risk ratings?**

The regulation already requires that a competent person must carry out a consequence category assessment and review, a safety review and a review of dam design. Requiring that assessments of societal and individual risk ratings are carried out by a competent person is consistent with those existing regulation requirements.

This also reflects the specialised nature of the assessment and its importance in determining the safety of the dam. It is likely that risk assessments of societal and individual risk ratings for declared dams are already being undertaken by competent persons so amending the regulation largely reflects this practice.

### **For which dams would assessments of societal and individual risk ratings require independent review?**

Similar to safety reviews, it is proposed that assessments of societal and individual risk ratings be independently reviewed by a competent person for high and extreme consequence category dams. An independent review would add confidence that the assessments are appropriate for the dam.

### **Why is Dams Safety NSW proposing that a panel of competent persons are used for safety reviews, reviews of safety reviews and design reviews?**

In September 2019 concerns were raised about the structural stability of Paradise Dam near Bundaberg in Queensland. An independent inquiry highlighted the importance of proper technical reviews throughout the lifecycle of a dam. You can read about the inquiry on the Commission of Inquiry's website at [www.paradisedaminquiry.qld.gov.au](http://www.paradisedaminquiry.qld.gov.au).

The current NSW regulation requires that a declared dam owner ensure that safety reviews, independent reviews of designs and reviews of safety reviews are undertaken by a competent person. A single competent person may not have all the expertise required for the reviews.

To address the issues raised by the Paradise Dam Commission of Inquiry, and to ensure that all required areas of speciality are covered, it is proposed that a panel of competent persons be used for these reviews.

### **Which declared dams would require a competent panel for safety reviews and an independent review of a safety review?**

High and extreme consequence category declared dams.

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### **How many members, and with what qualifications, would be required on a panel?**

Each declared dam has unique design requirements that reflect the characteristics of the dam site.

The panel would have persons with experience, training or professional qualifications in relation to each of the relevant specialities that apply to that particular dam.

### **When would a competent panel be required to review dam designs?**

A panel would be required to review dam designs (for new dams or any major modification to the dam) for high and extreme consequence category declared dams.

### **When would declared dam owners be required to begin employing competent persons and competent panels?**

The proposals for:

- the use of competent persons for assessment and review of societal and individual risk ratings
- the use of competent panels for safety reviews and their review.

would come into effect on 1 November 2021, so that a competent person/competent panel would need to carry out the work after that date.

The proposal for the use of a competent panel for review of dam designs would come into effect as soon as the amendment to the regulation is made, so a competent panel would need to carry out any design reviews after that time.

### **Correction to one of the goals of the dam safety management system**

#### **Why is Dams Safety NSW proposing to add the word 'environment' to Clause 12 (2) of the Regulation?**

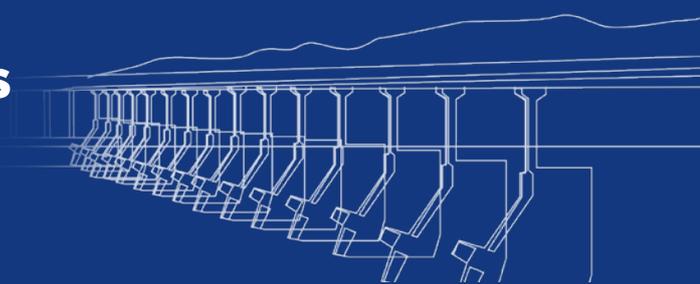
Clause 12 (2) of the regulation describes, in general, what the dam safety management system is designed to do: 'the primary means of ensuring, so far as is reasonably practicable, the safety of persons and property is not put at risk from the dam'.

The word 'environment' was inadvertently omitted from the 'persons and property' part this clause.

The environment is included as one of the objects of the Dams Safety Act 2015 and is included in the Societal and Individual Risk Rating Methodology.

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### Clarifying that the lower safety threshold applies to a major *augmentation* to the dam

#### Why is Dams Safety NSW proposing to replace ‘major change’ with ‘major augmentation’ in regulation clause 15 (4)?

##### Clause 15 (4)

*...If the societal risk rating or highest individual risk rating for a dam is higher than the following (the safety threshold), the dam owner must forward a copy of the report to Dams Safety NSW as soon as practicable after the report is produced –*

*(a) societal risk rating for an existing dam (except as provided by paragraph (b))—0.001,*

*(b) societal risk rating for a proposed dam or for an existing dam that is to be subject to a **major change augmentation** - 0.0001.*

In the current wording of the regulation a ‘major change’ to a dam includes all types of changes to the dam. However, some of these changes may be intended to reduce dam risk levels (i.e. a dam safety upgrade) and not intended to enhance the capacity, functionality, or purpose of the dam. The applicable societal risk threshold should remain at the ‘existing dam’ value of 0.001 for this type of major change.

A major ‘augmentation’ to a dam creates a significant new benefit. Some examples include a permanent raising of the operating storage level of the dam; changing the dam/spillway configuration to cater for a new purpose such as flood mitigation. The lower safety threshold of 0.0001 should apply to dams undergoing this type of major change.

The existing terminology adopted in the Societal and Individual Risk Rating Methodology also refers to the term ‘major augmentation’ in section 2(2), so amending the regulation to align with this terminology is warranted.

#### For more information email us at [communication@damsafety.nsw.gov.au](mailto:communication@damsafety.nsw.gov.au).

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The information contained in this publication is based on knowledge and understanding at the time of writing (**July 2021**). However, because of advances in knowledge, users are reminded of the need to ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate officer of the Department of Planning, Industry and Environment or the user's independent adviser.