



Hawkesbury-Nepean Valley Flood Management Taskforce

Managing a Flood Mitigation Zone at Warragamba Dam



Project 6.2 (2) Flood Mitigation Dam Operations

Final Report
Version 3.0

Sensitive: NSW Government
July, 2015

Liability issues

The current statutory protections have been adequate given the dam's operating environment. However, this level of protection is inadequate in an operating environment which includes a flood mitigation function for Warragamba Dam.

The increased risks faced by the WaterNSW relate to negligence, a duty to warn, trespass, nuisance (both public and private), breach of statutory duty and vicarious liability.

At a high level, WaterNSW would require:

- amendment to its enabling legislation to provide a complete statutory limitation of liability to the operator, its directors, officers and employees for actions taken by WaterNSW in discharging its statutory functions.
- a comprehensive dictionary / set of definitions as a part of the amendment of legislation is required to provide clear direction in the Act and provide a clear construction of the dam operator's objectives and functions (ie. what it means when WaterNSW is performing its flood mitigation and flood management functions.)
- the creation of a comprehensive suite of subordinate documentation including but not limited to detailed Flood Manuals, new operating protocols and other instruments of control including a process for amendment and departure from those operational protocols as might be required when the dam is operating in flood mitigation mode.
- Ministerial responsibility for approving the Flood Manual, subject to the Minister's satisfaction that the contents meet with best practice and that the manual had been independently peer reviewed.

WaterNSW has asked that project 6.2(1) address these issues.

Possible next steps

As this report is part of a broader government process and will contribute to the development of a Hawkesbury-Nepean Valley Flood Management Strategy, it is not until Government determines the direction to be taken that WaterNSW will be able to progress most of these matters further. Cabinet is scheduled to consider the Strategy towards the end of 2015.

To be able to inform Government of future work required, a consolidated list of possible next steps has been developed and is included in Appendix 1. This list arose from the knowledge gaps and outstanding requirements identified as part of this project and Project 1.1.

The list documents the issues to be addressed and actions to be completed. Where WaterNSW has responsibility for these actions, indicative timeframes and costs (capex and opex) have been estimated.