

Discussion Paper

Governance: regulatory scheme and institutional structure

Part I - Introduction

1. The Terms of Reference require the Commission to consider the governance arrangements and reporting arrangements in place for the design, commissioning and construction stages of the Dam. They also invite recommendations the Commission considers appropriate to ensure future Queensland dam projects are designed, constructed and commissioned to acceptable standards, as defined in Queensland Government legislation, ANCOLD guidelines and engineering good practice.
2. The ‘Key Issues’ identified by the Commission include (paragraph 3.4):
 - a. whether the use of a special purpose vehicle (Burnett Water Pty Ltd) was attended with weaknesses in terms of separating the design and build from the ultimate owner and operator of the Dam (SunWater);
 - b. whether an alliance arrangement was the appropriate delivery model for the design, construction and commissioning of the Dam in the sense of having contributed to the structural and stability issues identified in paragraph 1 above;
 - c. ...
 - d. whether the use of an independent review panel during the design and construction of the Dam would likely have improved governance and provided a wider lens across design and construction activities, including the avoidance of excessive reliance upon one, or a small number, of advisors;
 - e. whether the Dam Safety Regulator adequately discharged his statutory functions, including in properly conditioning the development permit for the Dam and ensuring those conditions were met;
 - f. whether the conditions of the development permit for the Dam were met;
 - g. the adequacy of peer review of the Dam’s design, and of changes and adjustments to that design;

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- h. the circumstances which contribute to a situation where there exists uncertainty among technical experts and engineers as to the Dam's structural integrity and stability and how this might be avoided in the future.
3. A summary of the legislative scheme and regulatory and institutional arrangements applicable to the Dam for these purposes is set out below, as context for the issues in Part III below, upon which the Commission invites submissions.

Part II – Statutory and Regulatory Context

Burnett Water Pty Ltd

4. The model adopted for the delivery of the Dam was an 'alliance' arrangement, within which there was a 'special purpose vehicle' to develop water infrastructure projects within the Burnett Basin, including the design and construction of the Dam. That body was Burnett Water Pty Ltd (ACN 097 206 614) (**Burnett Water**).
5. Burnett Water was a 'company GOC' as defined by the *Government Owned Corporations Act 1993* (Qld) and governed by that Act.¹ Burnett Water was incorporated on 20 June 2001 under the *Corporations Act 2001* (Cth)² and that Act applied to it except so far as *Government Owned Corporations Act* otherwise provided.³
6. The purpose of Burnett Water being brought into existence was to undertake impact assessment work, make applications for the necessary approvals and complete all other necessary activities to enable the construction and operation of a project. That project was one of five water infrastructure projects in the Burnett River catchment for which this company was the proponent.
7. Burnett Water was incorporated at the instigation of the Department of State Development, which had responsibility for the development of the project. An employee (or employees) of the State of Queensland held all the shares in Burnett Water at that time.

¹ *Government Owned Corporations Act 1993* (Qld) (reprint 5C) s 7(3).

² Australian Securities & Investments Commission Organisational Search for Burnett Water Pty Ltd.

³ *Government Owned Corporations Act 1993* (Qld) (reprint 5C) s 7(7).

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8. Burnett Water was granted a lease commencing 1 October 2003 over 480 hectares of land for ‘water facility’ purposes.⁴ A condition of the lease requires the land to be used for the Burnett River Dam. The lease term is 50 years. The Commission has received differing accounts of the structures and arrangements regarding the ownership of, and responsibility for, the Dam at various times. These remain under investigation and clarification of them is being sought.
9. Burnett Water became a wholly owned subsidiary of SunWater on 6 October 2005.⁵ All the shares in it were transferred to SunWater. Burnett Water continues to exist in that form today.

SunWater and SunWater Limited

10. SunWater was established by s 5 of the *Government Owned Corporations (State Water Projects Corporatisation) Regulation 2000* on 1 October 2000. It was a statutory GOC by virtue of s 20(2) of that Regulation and s 7(2) of the *Government Owned Corporations Act 1993* (Reprint 8A).
11. Section 15 of that Regulation provided that SunWater was the successor of the State Water Projects. That body was the commercialised part of the then-Department of Natural Resources which operated State-owned water infrastructure (including dams), within the departmental guidelines but having some autonomy. Its functions of management, operation and development of water infrastructure vested in SunWater upon its succession.
12. On 1 July 2008, SunWater Limited (ACN 131 034 985) was registered as a public company limited by shares.⁶ SunWater Limited was declared a company GOC by regulation dated 1 October 2008.⁷ It remains a GOC presently as specified in Sch 1 of the *Government Owned Corporations Regulation 2014*.

⁴ Freehold Land Register Search, Lot 2, SP 135369, Title Reference 40039575.

⁵ ASIC Search, Burnett Water Pty Ltd.

⁶ ASIC Search, SunWater Limited.

⁷ *Government Owned Corporations Regulation 2004* (Reprint 4) (Qld) Sch 2 and *Government Owned Corporations Act 1993* (Reprint 8A) ss 6 and 7(3).

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13. By reason of amendments to the *Government Owned Corporations Act* made in 2007, a reference in an Act to a statutory or corporate GOCs can be taken to be a reference to a GOC.⁸
14. Employees of GOCs are not employed under the *Public Service Act 2008 (Qld)*.⁹ A GOC does not represent the State.¹⁰

Genesis of the Dam Project

15. The *Water Infrastructure Development (Burnett Basin) Act 2001 (Qld)* established a project to investigate the feasibility of carrying out, as the ‘principal component’, a new water storage and distribution infrastructure for cane irrigation in the Burnett Basin.¹¹ That Act deemed the principal component to be a ‘significant project’ requiring an Environmental Impact Statement (EIS) under the *State Development and Public Works Organisation Act 1971 (Qld)*.¹² The act of declaring a ‘significant project’ was something the Coordinator-General of Queensland was otherwise empowered to do.¹³
16. The *Water Infrastructure Development (Burnett Basin) Act* also provided that the aspects of the ‘Bundaberg 2000+ project’ terms of reference for an EIS were to be the terms of reference for the EIS to be prepared for the principal component.¹⁴
17. The land required for the Paradise Dam project was compulsorily acquired by the Coordinator-General in February 2001.
18. The project was referred to the Commonwealth under the *Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act)*. It was determined to be ‘controlled action’ due to the likely impacts on matters of national environmental significance. That process, and the environmental approvals and the process for the granting of them are not within the scope of this Inquiry. There was a challenge to the

⁸ *Government Owned Corporations Act 1993 (Qld) (Current Reprint) s 169.*

⁹ *Government Owned Corporations Act 1993 (Qld) (Current Reprint) s 145.*

¹⁰ *Government Owned Corporations Act 1993 (Qld) (Current Reprint) s 154.*

¹¹ *Water Infrastructure Development (Burnett Basin) Act 2001 ss 4 and 5.*

¹² *Water Infrastructure Development (Burnett Basin) Act 2001 ss 6 and 7.*

¹³ *State Development and Public Works Organisation Act 1971 (Qld) (Reprint 2B) s 23.*

¹⁴ *Water Infrastructure Development (Burnett Basin) Act 2001 s 8 and Sch.*

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approval given under the EPBC Act to the Federal Court which was dismissed on 4 March 2011.¹⁵

19. The Coordinator-General of Queensland had a role in that process, which is not material for present purposes, other than to say his assessment of the EIS was such that the development of the Dam could proceed, subject to compliance with the requirements stated in his report. The Coordinator-general is a person appointed by the Governor in Council to administer (subject to the Minister) the *State Development and Public Works Organisation Act*.¹⁶ His or her primary role is to undertake and commission necessary measures to secure the proper planning, preparation, execution, coordination, control and enforcement of a program of works, planned developments and environmental coordination for the State.¹⁷
20. One recommendation made was that the land affected by the project be designated 'community infrastructure' for the purposes of Part 6 and Sch 7 of the *Integrated Planning Act 1997 (Qld)*.¹⁸ The Minister for State Development designated that land as land for community infrastructure on 10 October 2002.¹⁹ It was noted at that time that Burnett Water intended to construct and operate the proposed Burnett River Dam on the land.
21. The significance of this declaration was that the planning approval for the dam came within the responsibility, not of local councils (in whose territory the land to be used for the dam was located), but within the purview of the Minister for Natural Resources.²⁰

Wider legislative scheme

22. The *Water Act 2000 (Qld)* was in force when the Dam was being planned and built. It made provision for 'referable dams'.²¹ Such dams (and proposed dams) were ones for which a failure impact assessment (FIA) was required to be carried out²² and that

¹⁵ *Wide Bay Conservation Council Inc v Burnett Water Pty Ltd (No 8)* [2011] FCA 175.

¹⁶ *State Development and Public Works Organisation Act 1971 (Qld)* (Reprint 4A) ss 3, 4.

¹⁷ *State Development and Public Works Organisation Act 1971 (Qld)* (Reprint 4A) s 10.

¹⁸ DNR.020.018.7219 at .7244.

¹⁹ DSD.003.0001.

²⁰ *Integrated Planning Act 1997 (Qld)* s 2.6.8; Sch 7.

²¹ *Water Act 2000 (Qld)* s 481.

²² *Water Act 2000 (Qld)* s 481(a).

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assessment states that the dam has or will have a Category 1 or Category 2 Failure impact rating²³ and the Chief Executive has accepted the FIA.²⁴ If upon failure, the population at risk would be two to 100 persons, it attracted a ‘category 1’ failure impact rating.²⁵ If the FIA indicates more than 100 persons would be at risk upon failure, the dam has a ‘category 2’ failure impact rating.²⁶

23. Such an assessment was carried out by a registered professional engineer who is not an owner, operator or employee of either which accords with the guidelines for failure impact assessments.²⁷
24. That assessment was only required if the completed dam was greater than 8m in height, and has more than 500ML storage capacity, or more than 8m in height, storage capacity of more than 250ML and a catchment area more than 3 times its surface area at full supply level.²⁸
25. Guidelines for the failure impact assessment of water dams was published by the Department of Natural Resources, Mines and Energy in November 2018. Those Guidelines made clear that a dam has failed when any part of the dam physically collapses or if there is an uncontrolled release of content from the dam. This can occur with or without a wet weather event. A dam failure without a wet weather event is referred to as a ‘sunny day failure’.²⁹
26. Paradise Dam was always a ‘referable dam’. It was 53m high and has a capacity of 300,000ML. The failure impact assessment for it (dated June 2003) was carried out and certified by a Queensland Registered Professional Engineer (K L Ehm) on 18 June 2003.³⁰

²³ *Water Act 2000* (Qld) s 481(b)

²⁴ *Water Act 2000* (Qld) s 481(c).

²⁵ *Water Act 2000* (Qld) s 484(1)(a).

²⁶ *Water Act 2000* (Qld) s 484(1)(b).

²⁷ *Water Act 2000* (Qld) s 482.

²⁸ *Water Act 2000* (Qld) s 483.

²⁹ Guideline for failure impact assessment of water dams at 1.3.

³⁰ PTA.001.0001 at .0003 and PA-7.

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27. That assessment was submitted to the Department of Natural Resources, Mines and Energy. It was accepted, and notice of this was given to the Dam owner (Burnett Water Pty Ltd) on 28 July 2003.³¹
28. Provisions to similar effect as those stated above were later moved to the *Water Supply (Safety and Reliability) Act 2008 (Qld)*. They are not precisely the same, but the differences are for present purposes are not material.
29. The Chief Executive had power to apply and change safety conditions to a referable dam by way of notice to the dam owner.³² The owner was required to comply with the notice unless it had a reasonable excuse; it was an offence not to comply.³³ If the Chief Executive was satisfied or reasonably believed that there was a danger of failure of a referable dam and action is necessary to prevent or minimise that risk, the Chief Executive was empowered to direct the owner or operator to take stated action within a stated reasonable time.³⁴ It was an offence to not comply with such a direction without reasonable excuse.³⁵ Similar powers exist in the *Water Supply (Safety and Reliability) Act 2008 (Qld)*.³⁶
30. The construction of a Dam invokes the need to comply with two legislative regimes: the need to obtain authority to interfere with water and the need to obtain permission to carry out operational works that result in the taking of water and the construction of a referable dam.
31. This Discussion Paper now considers the material elements of these regimes and how the Dam owner met those requirements and the conditions imposed as a result.

³¹ PTA.001.0001 at .0004 and PA-8.

³² *Water Act 2000 (Qld)* s ss 491 and 492.

³³ *Water Act 2000 (Qld)* s 491(3).

³⁴ *Water Act 2000 (Qld)* s 494(1) and (2).

³⁵ *Water Act 2000 (Qld)* s 494(4).

³⁶ *Water Supply (Safety and Reliability) Act 2008* s 359A.

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Integrated Planning Act

32. The *Integrated Planning Act* 1999 (Qld) provided that operational works which would result in the taking of water³⁷ (as defined in the *Water Act* 2000 (Qld)³⁸), or the construction of a referable dam³⁹ were ‘assessable works’ and required a development permit.⁴⁰
33. For assessable works, development could commence when the development permit took effect.⁴¹ Works could only be carried out to the extent and conditions of the development permit.⁴²
34. Applications for development approval were to be made to the assessment manager,⁴³ who for, the purposes of the Dam, was the chief executive administering the *Water Act* 2000.⁴⁴
35. Burnett Water was granted a development permit on 30 October 2003 authorising construction of operational works to facilitate the taking of or interference with water subject to any licence or other authorisation under the *Water Act* 2000 (Qld).⁴⁵ Further permits were issued 3 June 2004 and 6 October 2005.⁴⁶ The latter two dealt with changes to the Dam’s design after the initial approval. They are not material for present purposes.

Water Act

36. The *Water Resource (Burnett Basin) Plan 2000* (now repealed) (**the Plan**) was approved by the Governor in Council on 14 December 2000 and provided the statutory framework for (among other things) the sustainable management and taking of water and the framework for establishing water allocations.⁴⁷

³⁷ *Integrated Planning Act* 1997 (Qld) (Reprint 4N) s 3.1. 2 and Sch 8 s 3B.

³⁸ *Water Act* 2000 (Qld) (Reprint 3A) Sch 4.

³⁹ *Integrated Planning Act* 1997 (Qld) (Reprint 4N) s 3.1.2 and Sch 8 s 3C(a).

⁴⁰ *Integrated Planning Act* 1997 (Qld) (Reprint 4N) s 3.1.4(1).

⁴¹ *Integrated Planning Act* 1997 (Qld) (Reprint 4N) s 3.5.20.

⁴² *Integrated Planning Act* 1997 (Qld) (Reprint 4N) s 3.1.5(3).

⁴³ *Integrated Planning Act* 1997 (Qld) (Reprint 4N) s 3.2.1.(1).

⁴⁴ *Integrated Planning Regulation* 1998 (Qld) (Reprint 3H) Sch 1A, Part 2, Item 2.

⁴⁵ PTA.001.0001 at .0006 and PA-19.

⁴⁶ PTA.001.0001 at .0006 and PA-21 and 22.

⁴⁷ *Water Resource (Burnett Basin) Plan* 2000 s 2.

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37. The Dam lies within the Burnett Basin plan area,⁴⁸ and specifically, sub-catchment area G.⁴⁹
38. The Plan provided that water infrastructure operators⁵⁰ were to report each financial year to the Chief Executive including by giving information about, for example, the monitoring of water quantity and quality, decision making and management.⁵¹ The Plan also provided that authorisations, which included Resource Operations Licences (ROL),⁵² could and did limit the amount of water permitted to be taken on a daily and annual basis by the operator.⁵³
39. A ROL is an authorisation to take or interfere with water flow or operate water infrastructure⁵⁴ and can require the holder to have an operations manual.⁵⁵ It was, and remains, an offence to interfere with, or take, water without a licence.⁵⁶
40. Burnett Water was granted an ROL on 25 September 2003 by the delegate of the Chief Executive to interfere with the flow of water and destroy vegetation, mechanically or by inundation, to the extent necessary to construct the Dam.⁵⁷ The ROL required, among other conditions, Burnett Water to report any non-compliance with the terms of the ROL within seven days, notify the Chief Executive of any emergency requiring action immediately upon discovery, and provide a report on the emergency within seven days.⁵⁸
41. It was granted another ROL which commenced on 6 October 2004 in substantially the same terms as the 2003 ROL.⁵⁹

⁴⁸ *Water Resource (Burnett Basin) Plan 2000* Sch 3.

⁴⁹ *Water Resource (Burnett Basin) Plan 2000* Sch 2.

⁵⁰ Water infrastructure operator means the holder of a ROL, interim ROL or other authority, *Water Resource (Burnett Basin) Plan 2000* Sch 9.

⁵¹ *Water Resource (Burnett Basin) Plan 2000* s 42.

⁵² *Water Resource (Burnett Basin) Plan 2000* Sch 9, definition of “authorisation”.

⁵³ *Water Resource (Burnett Basin) Plan 2000* ss 31 and 32.

⁵⁴ *Water Act 2000 (Qld)* s 176.

⁵⁵ *Water Act 2000 (Qld)* s 197.

⁵⁶ *Water Act 2000 (Qld)* s 808.

⁵⁷ PTA.001.0003.

⁵⁸ PA.003.0001.

⁵⁹ PTA.001.0003 and PA.004.0001.

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42. That ROL was replaced on 18 October 2005 with another ROL authorising interference with the flow of water and the destruction of vegetation to the extent necessary to construct the water infrastructure. It further authorised the storage of water.⁶⁰
43. Chapter 4 of the *Water Supply (Safety and Reliability) Act 2008* concerns ‘referable dams’. That Act also now governs the safety practices and procedures for referable dams. It contains provisions regarding the responsibilities and rights of various entities involved in the operation of dams.

The Dam Safety Regulator

44. The *Water Act 2000* (Qld) establishes a ‘regulator’, who is also the Chief Executive.⁶¹ At the time the Dam was designed and built, Mr Peter Allen held that role. The regulator’s functions relevantly including reviewing and making recommendations about standards and practices and monitoring compliance with the Act.⁶² Section 515 provided as follows:

515 Regulator’s general functions

- (1) The regulator’s general functions are—
- (a) to keep a register of service providers registered under this Act; and
 - (b) to review and make recommendations about standards and practices under this chapter; and
 - (c) to monitor compliance with this chapter; and
 - (d) to perform other functions given to the regulator under this Act or another Act.
- (2) In performing the regulator’s functions, the regulator must consider the purposes of this Act.
45. Chapter 2, Part 2 of the *Water Supply (Safety and Reliability) Act 2008* (Qld) also contains provisions to similar effect.

⁶⁰ PTA.001.0003 and PA.006.0001.

⁶¹ *Water Act 2000* (Qld) s 514.

⁶² *Water Act 2000* (Qld) s 515.

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46. The Regulator could lawfully delegate functions and powers to an appropriately qualified officer of the department.⁶³
47. Mr Allen attended a meeting with the Dam's designers, Mr Neumaier, Mr Herweynen, and others on 19 February 2004.⁶⁴ The main topics discussed were the general arrangement, the dam foundation, basalt, the RCC mix, the 'DS Facing, Crest & Aprons' and the 'Dam Regulator's requirements'. It was said, under a heading in the notes of that meeting 'Dam Regulator's Requirements', that:
- Main requirements are to document all assumptions made. The design report will provide details of these assumptions.
 - o Design parameters
 - o Design methodology
 - Also need to confirm assumptions and document on site during construction process. The construction report will be the document that provides these details.
 - All information that would be required to undertake a Safety Review of the dam should be documented.
 - **There may be Regulator audits during the construction process to check that procedures are in place to confirm the design parameters are met and that the procedures are being followed.**
 - Burnett Water will also probably undertake there [sic] own audits.
 - Key items that the Regulator is interested in include:
 - o Membrane
 - o **Trial embankment and RCC placement process**
 - o **Processes & procedures to confirm design parameters are being met.**

[emphasis added]

Dam Safety Management Guidelines 2002

48. The Queensland Dam Safety Management Guidelines 2002 were produced by the Department of Natural Resources and Mines and were to be used by the owners, operators, employees and consultants for referable dams.
49. A dam safety management program was recommended for referable dams. It comprised policies, procedures and investigations to minimise the risk of dam failure and includes instructions on documentation of each procedure.⁶⁵
50. The safety conditions which are attached to development permits must be a relevant but not an unreasonable imposition. Dam owners can appeal against dam safety conditions.

⁶³ *Water Act 2000 (Qld)* s 520(1).

⁶⁴ DNR.005.4886 at .4891.

⁶⁵ 2002 Guidelines, s 2.

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Development permits attach to the land the referable dam is to be built, binding the current and future owners and any tenant.⁶⁶

51. Section 4.4 of the 2002 Guidelines notes that the two key areas of investigation that relate to dam safety issues are geological and geotechnical, and hydrological:
 - a. geotechnical investigations are recommended to be carried out in stages from broad to more detailed. Investigations should include the geology, topography and depth of water in the storage area and expand beyond the dam site alone. This should all be recorded in a comprehensive report for consideration by the designer;
 - b. hydrological investigations should include developing a run-off model, assessing the consequences of potential failure, and determining the spillway design. Again, this should be reported and presented to the designer for consideration prior to finalising the design.
52. The 2002 Guidelines specify that design should consider foundation properties and treatment, type of spillway and energy dissipation and structural capacity of principal elements (among others).⁶⁷ In s 4.5.2, it is noted that the spillway size must be established on the basis of accepted engineering standards based on the ANCOLD Guidelines on Selection of Acceptable Flood Capacity for Dams, 2000.
53. The designer should be an RPEQ and establish construction and operational inspection programs which include frequent inspections to confirm site conditions confirm to those assumed for the design. The constructing engineer should have experience in dam engineering. They should have the responsibility for managing the construction staff to assure compliance with specifications.⁶⁸
54. Dam owners are required to compile and maintain a Data Book, which is a summary of all pertinent records and history including design and construction records.⁶⁹

⁶⁶ 2002 Guidelines, s 3.1.2

⁶⁷ 2002 Guidelines, s 4.5.

⁶⁸ 2002 Guidelines, s 4.6.

⁶⁹ 2002 Guidelines, s 4.7.1.

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Part III – Issues

Role of the Dam Safety Regulator

1. The Dam Safety Regulator had involvement in the imposition of development conditions on the approval to construct the Dam [PTA.001.0001 at .0005].
2. Those conditions required, among other things:
 - a. by DS 4(1) that the Dam be designed and constructed to comply with the Queensland Dam Safety Management Guidelines;
 - b. by DS 6(1) that the Dam Owner develop as constructed documentation in accordance with the Condition and the Guidelines;
 - c. by DS 6(2) that the Dam Owner provide as constructed documentation to the Chief Executive of the Department of Natural Resources and Mines.
3. The Dam Safety Regulator attended a meeting with the Burnett Dam Alliance on 19 February 2004 [DNR.020.019.2562]. At that meeting, the Dam Safety Regulator:
 - a. discussed his requirements, which were:
 - i. to document all assumptions made. The design report was to provide details of these assumptions (design parameters and design methodology);
 - ii. to confirm assumptions and document on-site during the construction process. The ‘construction report’ was to be the document that would provide these details;
 - iii. that all information that would be required to undertake a safety review of the dam should be documented;

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- b. indicated that the Regulator may undertake audits during the construction process to check that procedures are in place to confirm the design parameters are met and that the procedures were being followed.
4. Under s 515 of the *Water Act 2000* (Qld), the Dam Safety Regulator had functions of reviewing and making recommendations about standards and monitoring compliance with that Act.
5. On 15 November 2005, Burnett Water provided the Department with a list of all of the design, construction and Quality Assurance documentation for the Dam [DNR.008.3325].
6. On 15 November 2005, the Department responded, requesting only files that purportedly related to the Department's needs [DNR.008.3325]. The Department requested the following files from the 'Dam Owner':
 - Introduction/Overview
 - Design Calculations Files
 - Design Report Stage 2
 - Design Report Stage 3 – Final Design Report (incl. outstanding files)
 - Construction Report
 - Design and Construction Program
 - All the files that make up the sections as described above (eg for the Construction report 30.1 to 30.8 inclusive)
7. As far as the Commission can ascertain, the Dam Safety Regulator did not undertake any audits during the construction process to check that the procedures that were in place to confirm the design parameters were met and that those procedures were being followed.
8. The Dam Safety Regulator has not produced to the Commission a copy of the 'Construction Report' which summarised the as-constructed documentation as required

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by 4.7.3 of the Guidelines and DS 6(1) and (2) of the development conditions. As far as the Commission can ascertain, no ‘construction report’ of the kind referred to was ever produced.

Issues

1. Did the Dam Safety Regulator adequately discharge his statutory responsibilities in respect of the design and construction of the Dam?
2. Were the conditions of the Development Permit:
 - a. appropriate; and
 - b. met?
3. What did the Dam Safety Regulator do in relation to sliding stability?
4. In any event, what role ought the Dam Safety Regulator have, statutory or otherwise, in connection with the design and construction of the large dams in Queensland which is undertaken by persons outside of government?
5. Is any change to the way in which the Dam Safety Regulator’s functions appropriate to enhance supervision or influence compliance with conditions of development conditions, design requirements, guidelines, standards and good engineering practice? If so, is any legislative amendment desirable?

Structural arrangements

1. This Paper has set out the structural arrangements with respect to Burnett Water, so far as they are presently understood.
2. Burnett Water was a special purpose vehicle established by government (Department of State Development) to develop the project. It was a member of the Burnett Dam Alliance.

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Issues

3. Are the facts stated above in connection with Burnett Water's status and organisational history accurate?
4. Should the arrangements with respect to Burnett Water have been different, for example:
 - a. ought Burnett Water to have stood outside the Alliance?
 - b. ought the ultimate operator of the Dam (whoever that was to be) to have been more closely involved in the Dam's design, construction and commissioning, including to give a more direct connection between those designing, constructing and commissioning the Dam and the entity who would ultimately be responsible for its day to day operation?
 - c. ought SunWater to have been a member of the Alliance, once the decision was made that it was to operate the Dam?
 - d. would different arrangements have assisted the better design, construction and commissioning of the Dam and if so, how, and what are the suggested other (better) arrangements?
 - e. would it have improved governance arrangements for the Dam if it had been made known earlier than it was that SunWater was ultimately to have responsibility for the Dam, for example at the time the Dam was being designed?

13 March 2020