

# **2024 Annual Report**

## **Dam Safety Expert Advisory Panel (Victoria)**



**Author**

Jim Keary - Chair, Dam Safety Expert Advisory Panel (formerly known as the Dam Safety Advisory Committee)

**Photo credit**

Tarago Reservoir, 2024 – DEECA

## **Overview and Background**

The Dam Safety Expert Advisory Panel (formerly known as the Dam Safety Advisory Committee) commenced in October 2023. It was an initiative that updated and supplanted the role of the former Dam Safety Advisory Committee (Committee) which had operated for the previous 12 years. This previous Committee had started as a technical advisory group but in response to the issues facing dam safety regulation, this Committee had evolved to have a broader set of advisory skills and experience amongst its members in recent times.

The primary purpose of the Dam Safety Expert Advisory Panel (Panel) is to be a source of independent advice to the Dam Safety and Regulation Team within the Water and Catchments Group of the Department of Energy, Environment and Climate Action (Department). The Department staff are responsible for the exercise of statutory functions of dam safety regulation and the development and implementation of sound dam safety management practices by public and private dam owners. The Department emphasises the fundamental principle of the Victorian approach, which is that 'dam owners are primarily responsible for the safety of their dams'.

The Panel is required to provide an annual report on its activities. This report covers the period from 1 October 2023 to 30 September 2024 during which the Panel met two times, had several out-of-session communications and two cancelled meetings. One cancelled meeting was due to a light agenda better handled by out-of-session communications and the other cancelled meeting due to DEECA restructuring commitments, the agenda of which was transferred to the next scheduled meeting.

## **Panel composition and operation**

The Panel members are appointed for three years and the Panel's Terms of Reference are attached (Attachment 1). The broad range of skills of the panel members includes experience in dam safety, dam management, asset management, business and public administration, community relations, regulation, and Victorian water industry governance. The Panel members and some of their varied skills are summarised below:

- Jim Keary (Chair and Technical management experience)
- Bronwen Clark (Community relations and communications specialist)
- Charmaine Quick (Water industry representative and manager of large dams)
- Miles Hutchison (Regulatory specialist)
- Angus Swindon (Dam safety specialist and Chair ANCOLD)
- David Watson (Asset and risk management specialist)

The Victorian approach to dam safety regulation is to be adaptive to emerging trends and issues relating to dam safety. The Panel plays an important role in appraising and discussing trends and issues with Department staff. The Department acts to encourage

that the various categories of dam owners (Water Corporations, private owners, Department regions, Parks Victoria, and councils) are making progress on necessary risk assessments and remediation works on their dams to achieve the goal of an appropriate level of dam safety. Different approaches have been adopted to achieve this goal with the different categories of dam owners. The Panel monitors and discusses progress and possible initiatives to overcome challenges when they occur.

## **Summary of relevant matters addressed by the Panel**

The following provides a summary of specific matters of relevance addressed by the Panel during the reporting period.

The major issues that the Panel advised on included:

- Development of strategic priorities for the Panel to guide input to the Department's work program.  
The five strategic priority areas include small dams; continual improvement of dam safety regulation; skills, workforce planning and training; increasing risks and impacts of climate change on dams and increased development downstream of dams; and emergency management of dams.  
Overseeing work the water industry is undertaking on workforce skills development and training with special attention on the dams' component and potential for inclusion in a proposed workforce readiness project by VicWater.
- Reviewing and providing feedback on highlights from the statewide annual dam safety report for 2023.  
In 2023, 16 Water Corporations, Parks Victoria and AGL Hydro provided information on 654 dams and 239 flood retarding basins for the report. The data validation process that DEECA has focussed on over the last two years' has improved the overall quality and completeness of data by reducing inconsistencies and data gaps. Overall statistics have improved with dam owners providing increasing information on all aspects of dam safety management (operation and maintenance, surveillance programs, dam safety management frameworks and dam safety policies). DEECA will continue to work with dam owners to improve the portal functionality and data quality.
- Providing advice and input on the Department's special initiatives on dam safety.
- Contribution to the update of Victoria's Dam Safety Framework and discussion and feedback on draft versions of the *Strategic Framework for Dam Safety Regulation* and the *Guidance Note on Dam Safety Management*. These documents, which were published in August 2024, articulate Victoria's dam safety regulatory arrangements and expectations and provide a structure to assist implementation, continuous improvement and assurance of dam safety in Victoria.

- Reviewing issues that have arisen with public and private dams over the year.
- Discussion of developments with climate change and impacts on dam management and safety.
- Reviewing and providing feedback on current dam safety response and operations arrangements.
- Discussing options to improve the effectiveness of DEECA in responding to dam safety incidents.

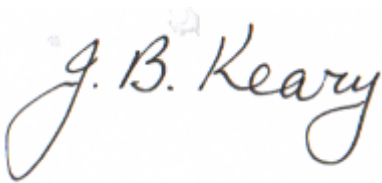
During this reporting period, the Panel met with:

- Water Services Association of Australia (WSAA) to gain further insight into the regulation of dams in other states and the challenges they face for lessons for Victoria.

## **Conclusion**

The Panel acts as a reference body of broad and independent expertise for the Department. It has complied with its Terms of Reference and contributed to the Department's progress in updating its framework for dam safety management and regulation, overseeing dam safety management arrangements and reports, and responding to emerging issues.

The Panel continues to add value to the Department and its small but effective group of staff committed to dam safety regulation. Matters of public safety require constant diligence and the Panel is committed to pursuing continuous improvement in the dam safety regulatory framework and its application. The upcoming challenges of increased uncertainty and risk due to climate change impacts and need for improved emergency response practices require special ongoing attention.

A handwritten signature in blue ink that reads "J. B. Keary". The signature is written in a cursive, flowing style.

**Jim Keary**

Chair, Dam Safety Expert Advisory Panel

February 2025

## **Attachment 1**

# Dam Safety Expert Advisory Panel

## Terms of Reference

### Introduction

1. The purpose of the Dam Safety Expert Advisory Panel (Panel) is to provide independent expert input and advice to the Department of Energy, Environment and Climate Action (the Department) on the regulation of dam safety in Victoria. The Panel is subject to the general direction of the Executive Director, Partnerships and Sector Performance in the Water and Catchments Group of the Department.

### Definitions

2. In these Terms of Reference-

**Panel** means the Dam Safety Expert Advisory Panel (formerly known as the Dam Safety Advisory Committee) established by the Executive Director, Partnerships and Sector Performance in the Water and Catchments Group of the Department by these Terms of Reference.;

**Department** means the Department of Energy, Environment and Climate Action or its successor.

**Member** means a member of the Panel and includes a reference to the Chairperson unless the contrary intention is expressed.

**Minister** means the Minister for Water.

### Establishment of Panel and Overview

3. The Department established the Dam Safety Expert Advisory Panel (formerly known as the Dam Safety Advisory Committee) in 2011 in response to a recommendation from a review of the Victorian dam safety regulatory framework in 2010.
4. The underlying principle of dam safety regulation in Victoria is that ultimate responsibility rests with the dam owner through exercise and demonstration of due diligence. The *Water Act 1989* establishes owner liability for dam safety but also provides significant powers to the Minister for Water to intervene and give directions concerning both public and private dam safety.
5. The Department assists the Minister for Water in the regulation of dam safety, undertaking the main regulatory role for public dam safety. Regulatory tasks for private dam safety are largely delegated by the Minister to five licensing authorities, with the Department providing policy support.

### Accountabilities

6. The Panel is subject to the general direction of the Executive Director, Partnerships and Sector Performance in the Water and Catchments Group of the Department in the performance of its functions.
7. Each member of the Panel is required to comply with these Terms of Reference, and each member's ongoing participation in the Panel is their implied acceptance of these Terms of Reference.
8. Each member of the Panel is required to act in the best interests of the Panel and to conduct themselves in a manner that is consistent with their standing as an appointed member.

## Activities and Outcomes

9. The Panel will not exercise any dam safety statutory functions or responsibilities, or assume any decision-making capacity about either the regulation of dam safety, or about the management and operation of any dam.
10. The Panel's role is confined to providing advice to the Department. The decision to act on the Panel's advice will remain the prerogative of the Department.
11. The Panel will provide ongoing advice, guidance and assistance for the continual improvement of the Department's approach to dam safety.
12. The Department may seek advice from the Panel on matters relating to safety regulation, management and operation of individual dams, including emergency management.
13. Other activities to be undertaken by the Panel may include site visits in conjunction with the Department.
14. The Panel may suggest that the Department seek specialist Departmental or external advice where it determines that additional technical, policy or legal clarity is required in reviewing various proposals and issues.
15. The Panel will be required to produce an annual report.
16. The appointment of external contractors does not form part of the Panel's Terms of Reference.

## Membership

17. The Panel will consist of up to seven invited members, including the Chairperson, appointed by the Executive Director, Partnerships and Sector Performance in the Water and Catchments Group of the Department, on the basis of their individual specialist and technical skills, experience and knowledge of dam safety management, business and economics, regulation, and asset and risk management. Panel membership will include a water corporation member (water industry representative) nominated by the Department in consultation with VicWater.
18. All Panel members will serve as individual experts in their specific areas of expertise, not as representatives of their employer or other organisations. However, the advice provided by the Panel will be on a collective basis to the Department.

## Chairperson

19. The role of the Chairperson includes provision of leadership and oversight of the performance of the Panel's functions and delivery of its accountabilities; and will include:
  - (a) approval of the agenda and minutes of meetings prior to circulation to members and other meeting attendees;
  - (b) ensuring timely completion of required tasks by the Panel;
  - (c) stimulating the Panel by generating ideas and encouraging discussion;
  - (d) facilitating majority position or consensus of the Panel members on key issues;
  - (e) liaising with the Department secretariat to seek specialist Departmental or external advice where the Panel determines that additional investigations or policy or legal clarity is required;
  - (f) liaising with the Department out-of-session, as required; and
  - (g) preparing the annual Panel report, with input from Panel members, at the end of each calendar year for the period ending 30 September of that year for submission to the Executive Director, Partnerships and Sector Performance, by no later than 31 March of the following year. The report should include:
    - summary of the operations of the Panel;
    - summary of the results of the Panel's major deliberations and advice; and
    - review of the Panel's effectiveness.



20. The Chairperson may appoint a Deputy to fulfil the Chairperson's role when he or she is not reasonably able to do so.

### **Duration and Term of appointment**

21. The Panel is an ongoing advisory body.
22. Members of the Panel are appointed for a three-year term.
23. Members must be prepared to commit their time and effort for a minimum period of twelve months.

### **Remuneration & Expenses**

24. External Panel members will be remunerated for attendance at meetings, site visits, review and input to reports and documents and for the provision of any advice requested by the Department within the scope of these Terms of Reference.

### **Resignation from Office**

25. A member may resign from Office in writing addressed to the Executive Director, Partnerships and Sector Performance in the Water and Catchments Group of the Department.

### **Termination from Office**

26. The Department may, without cause or notice, terminate the tenure of a member at any time.

### **Vacancies**

27. The Office of a member becomes vacant if a:
- a) member completes the three-year period of appointment;
  - b) member resigns;
  - c) member's tenure is terminated; or
  - d) member becomes incapable of performing his/her duties.
28. The Department may decide to reappoint a member following the completion of the three-year appointment period.
29. Upon a vacancy occurring in the Office of a member, the vacancy may be filled in accordance with these Terms of Reference.

### **Operations and Meeting Procedure**

30. The Department will provide secretariat and other operational support to the Panel. Key arrangements will be as follows:
- a) **Activities:** The Department will prepare a forward program of activities in collaboration with the Chairperson, for the Panel's deliberations, recognising that this list will be regularly updated.
  - b) **Meeting schedule:** The Panel is expected to meet up to four times a year. Additional meetings may be held where the Panel Chairperson or the Department deems necessary. From time to time field trips may be organised involving all day attendance. All meetings will be scheduled in advance and members will be given adequate notice. A schedule of meetings and events will be maintained by the Department secretariat for the information of members. Members are expected to attend a minimum of 75% of meetings.
  - c) **Meeting procedures:** Agendas for the Panel meetings shall be prepared by the Department in consultation with the Chairperson. The agenda and any supporting agenda papers will be distributed at least five working days prior to each meeting.
  - d) The Chairperson will manage each meeting and determine the pace and length of deliberations on agenda items. The Chairperson will seek to ensure that every member has adequate opportunity to participate in the discussions on each item. A majority of the members of the Panel will constitute a quorum.
  - e) **Meeting minutes:** The Department secretariat is responsible for ensuring that minutes are kept for all meetings and distributed to Panel members before they are formally adopted at the next meeting.

- f) If the Chairperson is absent, or the office of Chairperson is vacant, the members present at a meeting may elect from the members present a member to preside at that meeting. The Chairperson, or presiding member, must ensure, as far as practicable, that every member has adequate opportunity to participate in discussions.

## Conflicts of Interest

31. In these Terms of Reference:

- (a) a '**conflict of interest**' is a conflict between a member's public duty to act in the best interests of the Panel and their private interests. It includes a **conflict of duty**, which is a conflict between a member's public duty to act in the best interests of the Panel and their duty to another organisation (e.g. due to their role as a board member or employee of that organisation).
- (b) A private interest:
- may be **direct** or **indirect**; and
  - can be **pecuniary** (financial) or **non-pecuniary** (non-financial), or a mixture of both. A non-pecuniary interest may arise from personal or family relationships or from involvement in sporting, social, or cultural activities, etc.
- (c) A conflict of interest exists whether it is:
- **real** (ie. it currently exists);
  - **potential** (ie. it may arise, given the circumstances); or
  - **perceived** (ie. members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the member's performance of his/her duty to the Panel, now or in the future).

32. At the commencement of each meeting, the Chairperson must enquire of all members whether there is any potential for a conflict of interest to arise in respect to any item on the meeting agenda or any matter to be discussed and an interest held by a member.

33. A member who has a conflict of interest in a matter being discussed at a meeting of the Committee must declare the nature of the interest:

- (a) at the commencement of a meeting; or
- (b) if they become aware of an interest during discussions, as soon as possible after becoming aware of the interest.

A declaration must be made even if the interest is already recorded in the Panel's Register of Interests.

34. A member who has made a declaration of a conflict of interest:

- (a) must leave the room during the agenda item;
- (b) must not take part in any discussion of the issue with other members, either during or outside of the meeting; and
- (c) must not vote on the matter to which the declaration relates.

The only exception is if the Committee agrees that it would be in the **public interest** for the member to take part in some or all of the discussion and/or voting on the issue. If the conflict is material it will not usually be in the public interest for the Committee to make an exception. If an exception is made, the minutes must record clear reasons why it is in the public interest to do so and what lesser measures will be put in place to manage the conflict. Careful monitoring must occur to ensure that the lesser measures remain in the public interest.

35. The Chairperson or member presiding at a meeting at which a declaration of an interest is made must cause the declaration and how the conflict of interest will be managed to be recorded in the minutes of the meeting.

36. The Chairperson must keep a record of declared interests (the Register of Interests). Any member may request and be granted access to this Register of Interests.

37. If a Committee member has breached their conflict of interest obligations in these Terms of Reference, the Chairperson must notify in writing the Executive Director, Partnerships and Sector Performance in the Water and Catchments Group of the Department as soon as practicable after becoming aware of such a breach, including whether the breach is material.

## Gifts, Benefits & Hospitality

38. A member must never make or accept offers of gifts, benefits and hospitality in their role as a Panel member unless it is in the public interest to do so.
39. As part of this requirement, members:
- (a) must never solicit gifts for themselves or anyone else;
  - (b) must refuse and report any attempt to bribe them;
  - (c) must refuse prohibited gifts (e.g. money or similar, gifts that raise a conflict of interest, inconsistent with community expectations, bring the Panel into disrepute, etc.); and
  - (d) must declare gift offers to the Executive Director, Partnerships and Sector Performance in the Water and Catchments Group of the Department.
40. Members are to obtain prior approval from the Executive Director, Partnerships and Sector Performance in the Water and Catchments Group of the Department for offers of hospitality that exceed \$50, before responding to the offer. Hospitality is the friendly reception and entertainment of guests, ranging from light refreshments at a business meeting to restaurant meals and sponsored travel and accommodation.
41. Members must disclose to the Chairperson any offers of gifts, benefits and hospitality that exceed \$50. The Chairperson must keep a register of declared offers, which any member may access.

## Dispute Resolution

42. For the purposes of this dispute resolution procedure, a '**dispute**' exists if:
- (a) two or more Panel members have difficulty working together (e.g. due to a conflict of personalities or ideological differences); and
  - (b) the situation is unduly affecting the ability of a member, or the Panel collectively, to perform their duties in an effective and efficient manner.<sup>1</sup>
43. All Panel members will avoid disputes, where possible. If a dispute arises:
- (a) the Panel members in dispute (the **parties**) will, **acting in good faith, make a reasonable, thorough and conscientious effort** to resolve the dispute on an **informal** basis, as soon as possible, and in the public interest (the **best interests of the Panel**); and
  - (b) the Chairperson will actively guide the parties towards resolution of the dispute.
44. It is preferable for disputes to be resolved on an **informal** basis. If a dispute cannot be resolved on an informal basis, then the Chairperson will place the matter on the agenda of the next Panel meeting.
45. At that meeting, if the Panel is satisfied that: (i) a dispute exists which cannot be resolved on an informal basis; and (ii) it is in the public interest to do so, then the Panel will notify the Executive Director, Partnerships and Sector Performance in the Water and Catchments Group of the Department in writing of the dispute, the parties and steps taken to resolve the dispute informally.
46. The Executive Director, Partnerships and Sector Performance in the Water and Catchments Group of the Department will notify the Chairperson within 21 business days of the options available to resolve the dispute.

## Observers

47. A person who is not a member of the Panel, such as a presenter or an observer ('Observer'), may attend all or part of a Panel meeting on written invitation from the Secretariat on behalf of the Chairperson.
48. An Observer may make a presentation to the Panel or participate in discussions in a Panel meeting but is not entitled to vote and is required to step out of a meeting on the Chairperson's request.

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<sup>1</sup> A difference of opinion between Panel members in relation to a proposed decision (e.g. strategic, business, policy, etc.) is not a 'dispute'. It is the normal difference of views that the Panel talks through together in a considered, courteous and constructive manner before voting to make its decision, in accordance with the Panel's meetings and decisions procedures.

49. An Observer must either destroy or return all copies of documents provided to them for the purposes of that meeting at the end of that meeting.

## **Confidentiality**

50. Members of the Panel must not give to any other person, whether directly or indirectly, any information acquired by reason of being a Panel member, except to the extent necessary to exercise the Panel's functions or provide information in accordance with these Terms of Reference.
51. Members of the Panel must not improperly use their position or any information acquired by reason of their position to gain an advantage to themselves or other people or cause detriment to the Panel.
52. The Executive Director, Partnerships and Sector Performance in the Water and Catchments Group of the Department may authorise the Panel to release specified information to third parties.

## **Privacy**

53. The Committee must have processes in place to ensure that its members, in the course of their duties on the Committee, comply with the requirements imposed by or under the *Privacy and Data Protection Act 2014* as if the Committee is a public sector agency for the purposes of that Act.

## **Freedom of Information**

54. Members of the Committee should be aware that all documents of the Committee (such as meeting agendas, board papers, minutes) will be held by the department and will be subject to the *Freedom of Information Act 1982*.

## **Intellectual Property**

55. The rights to Intellectual property created by the members of the Panel in the course of their duties on the Panel, including any reports required under these Terms of Reference, is the property of the State of Victoria.

## Reporting Arrangements and Organisational Chart

