



COVERSHEET

Minister	Hon Poto Williams	Portfolio	Building and Construction
Title of Cabinet paper	Dam Safety Regulations: Policy Proposals	Date to be published	13 April 2021

List of documents that have been proactively released

Date	Title	Author
18 February 2021	Dam Safety Regulations: Policy Proposals	Office of Hon Poto Williams
24 February 2021	Dam Safety Regulations: Policy Proposals – Minute of Decision DEV-21-MIN-0008	Cabinet Office
14 July 2020	Impact Summary: Regulatory Framework for Dam Safety	Ministry of Business, Innovation and Employment

Information redacted

NO

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Cabinet Economic Development Committee

Minute of Decision

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Dam Safety Regulations: Policy Proposals

Portfolio **Building and Construction**

On 24 February 2021, the Cabinet Economic Development Committee (DEV):

Background

- 1 **noted** that there are existing provisions in the Building Act 2004 that would enable a post-construction dam safety scheme for New Zealand, but that regulations are needed to give effect to those provisions;
- 2 **noted** that on 22 May 2019, DEV agreed to the release of a discussion paper on a proposed regulatory framework for dam safety, and invited the Minister for Building and Construction to report back on the outcome of the consultation and seeking agreement to final policy proposals [DEV-19-MIN-0118];
- 3 **noted** that:
 - 3.1 feedback received during public consultation was generally supportive of the proposed regulatory framework, although a number of specific concerns were raised;
 - 3.2 those concerns have been addressed in the current proposals, as outlined below;

Classifiable dam definitions

- 4 **noted** that the proposed classifiable dam definition has been changed from the one that was consulted on to address the concerns of submitters about the inadvertent inclusion of ponds, irrigation races and weirs in the proposed regulatory framework;
- 5 **agreed** to the following classification thresholds for classifiable dams:

a	4 metres minimum dam height and a minimum of 20,000 cubic metres of stored water; OR
b	1 metre minimum dam height and a minimum of 40,000 cubic metres of stored water; AND

further, in relation to stored water:

i	stored water that is lower than natural ground level at the downstream (or outside) toe of the dam or canal structure at its maximum height shall not form part of the volume calculation; AND
ii	stored water that is lower than the canal invert (at the location of hypothetical canal breach) shall not form part of the volume calculation.

Potential Impact Classifications

- 6 **noted** that the Potential Impact Classification will inform the basis for the requirements of the Dam Safety Assurance Programme;
- 7 **agreed** to the criteria and standards for the Potential Impact Classification methodology as specified in Annex 1 of the paper under DEV-21-SUB-0008;

Dam Safety Assurance Programme

- 8 **agreed** that the criteria and standards for a Dam Safety Assurance Programme be as specified in Annex 2 of the paper under DEV-21-SUB-0008;

Defining 'moderate earthquake', 'moderate flood', 'earthquake threshold event', and 'flood threshold event'

- 9 **agreed** to definitions of 'moderate earthquake', 'moderate flood', 'earthquake threshold event' and 'flood threshold event' as outlined in Annex 3 of the paper under DEV-21-SUB-0008;

Recognised engineer competencies

- 10 **agreed** to the competencies for recognised engineers as specified in Annex 4 to the paper under DEV-21-SUB-0008;

Amendments to section 150 of the Building Act relating to dam compliance certificates

- 11 **noted** that feedback received following public consultation on the proposed regulations highlighted that the requirement to publicly display a copy of the annual dam compliance certificate on the dam is impractical, due to most dams being on private land and not accessible to the public;
- 12 **agreed** to amend the Building Act to remove the requirement to publicly display dam compliance certificates on dams, and to remove the corresponding offences and penalties for non-compliance;
- 13 **agreed** to amend the Building Act to create an offence where a person fails to supply a dam compliance certificate to the Regional Authority as required under the Building Act, with a maximum fine of \$20,000 for an individual and \$60,000 for other persons;
- 14 **agreed** to amend the Building Act to create an offence where a person knowingly supplies a false or misleading dam compliance certificate, with a maximum fine of \$50,000 for an individual and \$150,000 for other persons;

Forms

- 15 **agreed** that the content specified in Annex 5 of the paper under DEV-21-SUB-0008 be the content of the prescribed forms used to document compliance with the regulations;

Timing of implementation

- 16 **agreed** that the period between the gazetting of the regulations and their coming into force be two years, with the precise implementation date to be determined as the regulations are being drafted;

Next steps

- 17 **authorised** the Minister for Building and Construction to issue drafting instructions to the Parliamentary Counsel Office to give effect to the policy proposals in the paper under DEV-21-SUB-0008;
- 18 **agreed** that the amendments to the offences in the Building Act be made through the next available legislative vehicle, which may be a regulatory systems amendment bill;
- 19 **authorised** the Minister for Building and Construction to consult nominated members of the Technical Working Group on Dam Safety and Engineering New Zealand on an exposure draft of the regulations;
- 20 **authorised** the Minister for Building and Construction to make decisions, consistent with the above paragraphs on any issues that arise during the drafting process, and on minor, technical and timing changes to the proposals as required.

Janine Harvey
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon Carmel Sepuloni
Hon David Parker
Hon Poto Williams
Hon Damien O'Connor
Hon Stuart Nash
Hon Kris Faafoi
Hon Michael Wood
Hon Dr David Clark
Hon Dr Ayesha Verrall
Hon Meka Whaitiri
Hon Phil Twyford
Rino Tirikatene, MP
Dr Deborah Russell, MP

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

Hard-copy distribution:

Minister for Building and Construction