

Hawkes Bay Regional Council

Statement of proposal

Proposed policy on dangerous dams, earthquake-prone dams and flood-prone dams 2024

DRAFT

1. What are we doing

The Building Act 2004 introduced a regime for managing the safety of existing and new dams in New Zealand. Under this Act, Regional Councils must prepare a policy on how they will deal with dangerous dams, earthquake-prone dams and flood-prone dams in their region, and how the policy will apply to heritage dams. We are updating our policy so that it aligns with the new dam safety requirements created by central government.

Those new requirements include the Building (Dam Safety) Regulations 2022 (**Regulations**) which come into effect in May 2024. From that date, owners of dams that meet the height and volume requirements will need to confirm the potential risk their dam poses, put in place safety plans and undertake regular dam inspections.

This document provides a summary of the proposed Policy on dangerous dams, earthquake-prone dams and flood-prone dams 2024 for your consideration. Your feedback is an important part of the policy drafting process. Once all comments and submissions have been considered, Council will make a decision on whether to adopt the amended policy.

2. Who should read this policy

You should read this policy if you have a dam that is a classifiable dam.

A classifiable dam is currently defined in [regulation 5](#) of the Regulations as a dam that:

- has a height of 4 or more metres and stores 20,000 or more cubic metres volume of water or other fluid

Measures by a regional authority to avoid immediate danger also apply to all other dams.

3. What is the policy about?

[Section 161](#) and [162](#) of the Building Act 2004 (**the Act**) requires all regional councils to adopt a policy on dangerous dams, earthquake-prone dams and flood-prone dams.

This policy sets out what Hawke's Bay Regional Council (**the Council**) will do in relation to a dangerous, earthquake-prone or flood-prone dam in the Hawke's Bay region. It is a short policy that covers our regulatory and legislative responsibilities in relation to these dams under the Building Act 2004.

The policy has four key sections:

1. What principles will apply:

Dam owners have the primary responsibility for identifying, monitoring, and reporting on dangerous, earthquake-prone and flood-prone dams and for reducing or removing the risk of harm to people, property and the environment in a timely and effective manner.

A recognised engineer engaged by the owner to provide a certificate must notify the Council and the owner of the dam if he or she believe that the dam is dangerous.

The state of all dangerous, earthquake-prone and flood-prone dams must be known, if this information is known by Council, this will be made readily available to all persons potentially affected by the safety risks.

2. How we will perform our legislative functions in relation to dangerous, earthquake-prone or flood-prone dams:

The Council will keep and monitor a register of all dams as required by [Section 151](#) of the Act, recording the dangerous, earthquake-prone and flood-prone status of each classifiable dam. Should the Council receive information about a dangerous, earthquake-prone or flood-prone dam within its regional boundary, the Council will notify relevant authorities and mana whenua.

It is expected that owners of classifiable dams will know the status of their dams as required under the Regulations and will take the necessary steps to act on it responsibly. The Council will work with the owners of identified dangerous dams, earthquake-prone dams and flood-prone dams to develop an action plan with the goals of increasing the safety of the dam.

Under certain circumstances, the Council may intervene and take action where there is or likely to be a risk of immediate danger. If appropriate, the Council will also notify potentially affected communities downstream of a dangerous, earthquake-prone or flood-prone dam.

If the Council considers there is immediate danger, the Council may put up fencing or hoarding around the dangerous dam to stop people approaching the dam, attach a notice that warns people not to approach, and give written notice to the owner of the dam requiring work to be carried out on the dam within the time stated in the notice to remove or reduce danger.

3. Our priorities when performing these functions:

The policy sets out that we will prioritise public safety at all times. When undertaking our functions, we will also seek to minimise the risk to damage or loss of property, the risk to the environment, and have regard to cultural and heritage values.

4. How the policy will apply to heritage dams:

In this policy, a heritage dam includes all dams included on the New Zealand Heritage List/Rārangī Kōrero maintained under [section 65](#) of the Heritage New Zealand Pouhere Taonga Act 2014, or the National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu list maintained under [section 81](#) of the Heritage New Zealand Pouhere Taonga Act 2014.

If a dangerous dam is also a heritage dam, we will account for the need to facilitate the preservation of significant heritage values. The Council will record the heritage listing of all dangerous, earthquake-prone and flood-prone dams it is made aware of in its register of dams. When dealing with heritage dams on this register, the Council will seek advice from Heritage New Zealand Pouhere Taonga and the relevant territorial authority before any actions are undertaken.

5. What are dangerous, earthquake-prone and flood-prone dams?

These terms are defined in the Building Act 2004.

A dam is **dangerous** for the purposes of the Act if it is a high potential or medium potential impact dam and is likely to fail –

- in the ordinary course of events; or
- in a moderate earthquake (as defined in the Regulations); or
- in a moderate flood (as defined in the Regulations).

A dam is an **earthquake-prone dam** for the purposes of the Act if the dam –

- is a high potential impact dam or a medium potential impact dam; and
- is likely to fail in an earthquake threshold event (as defined in the Regulations).

A dam is a **flood-prone dam** for the purposes of the Act if the dam –

- is a high potential impact dam or a medium potential impact dam; and
- is likely to fail in a threshold event (as defined in the Regulations).

6. What doesn't the policy cover?

The policy does not classify dams. The Regulations require dam owners to assess their dam as either low, medium or high potential impact. Their assessment considers the impact to the community, property, cultural sites, critical and major infrastructure, and the natural environment. If it is a medium or high potential impact dam, the Building Act then requires the owner to prepare a dam safety assurance programme.

The Council does not undertake this assessment nor is it responsible for preparing the dam safety assurance programme—this is the role of the dam owner and their recognised engineer. However, the dam owner must immediately notify the Council if they believe their dam is dangerous. We will then respond in accordance with the policy.

The policy also does not cover consenting matters under the Resource Management Act 1991 or Building Act 2004. **Submissions should relate to the contents of the policy. The Council is not able to change anything in the Act or Regulations.**

7. Where to find information

The statement of proposal and proposed policy are available on our website, visit <https://www.hbrc.govt.nz/> and search #damreview

If you have any questions about this proposal or about how to make a submission, please contact us via email damsafety@hbrc.govt.nz

8. How to make a submission

Consultation is open until 28 April 2024.

Anyone can make a submission on the proposed policy. You can make a submission via our website, visit <https://www.hbrc.govt.nz/> and search #damreview

As part of your submission, please tell us if you would like to attend a public hearing to speak to the Council in support of your submission, including if you wish to use New Zealand Sign Language. If you don't wish to speak, your submission will be provided to a hearings panel for consideration. Please provide your contact details so that we can notify you of the hearing date and arrange a time for you to speak (if you choose to). This will also enable the Council to inform you of the decisions on the policy following the hearing. Please be aware that all submissions will be publicly available on the Council's website.

9. What happens next?

After the hearing, the Council will consider all of the submissions received and make decisions on any amendments to the policy as a result. All submitters will be notified of the Council's decision.