



Report **06.326**
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Committee **Policy, Finance and Strategy**
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Building Act 2004

1. Purpose

To inform the Council of the requirements and implications of the Building Act 2004 (the Act) for Greater Wellington Regional Council.

2. Significance of the decision

The matters for decision in this report do not trigger the significance policy of the Council or otherwise trigger section 76(3) (b) of the Local Government Act 2002.

3. Background – Building Act Provisions

In August 2004 a new Building Act was passed with many provisions commencing on 30 November 2004 and the remainder commencing on 31 March 2005.

The Act gives the responsibility for processing and monitoring building consents for dams to Regional Authorities. Also included in the Act is a specific section dealing with dam safety which applies to existing dams and new dams once constructed. Greater Wellington Regional Council is, therefore, affected by the Act in two ways:

1. as a dam owner; and
2. in a regulatory sense

Not all dams are captured by the Act. Essentially, dams that retain three or more metres depth **and** hold more than 20 000 or more cubic metres of water or other fluid need to comply with the Act.

Currently, our records show that there are 34 dams in the Wellington Region that meet the definition of dam in the Act. Of those 34 dams, eight are owned (or have an interest in) by Greater Wellington.

Attachment 1 provides a summary, prepared by the Department of Building and Housing in relation to the management of Dams under the Act.

Specific functions imposed on Regional Authorities as a result of the implementation of the Act are detailed more fully below.

Building Consents Process

Greater Wellington Regional Council must become a *registered* Building Consent Authority in order to process building consent applications for dams. Part of the registration process requires Greater Wellington to become accredited. Accreditation involves meeting a prescribed set of standards and criteria set in regulations. The regulations have yet to be finalised, but it is likely Greater Wellington will be assessed for accreditation on things such as documentation of procedures, guidance information for applicants, record keeping, competency of employees or contractors undertaking the work, training plans etc.

Greater Wellington must become a registered Building Consent Authority by 30 November 2007. Greater Wellington may transfer its powers under the Act, but only to another Regional Authority.

Dam Safety

Under the dam safety regime, a dam owner must classify the potential impact of their dam (according to prescribed standards and criteria) and provide the classification to Greater Wellington. Owners of those dams that are classified as high or medium potential impact must develop a dam safety assurance programme to be submitted to Greater Wellington for approval. There will be a cost to dam owners to under take this work.

As outlined in **Report 06.329** Greater Wellington must adopt and implement a Dangerous dam policy. Under the Act, this policy must be adopted by 30 September 2006. This policy guides our response to the management of those dams that have been classified as dangerous.

Regulations that prescribe the standards and criteria for the potential impact classifications, dam safety assurance programme requirements and dangerous dam definitions are currently being developed by the Department of Building and Housing.

Dams owned by Greater Wellington

As a dam owner Greater Wellington will have to comply with the provisions of the Building Act. Dams will need to be classified and dam safety assurance programmes developed if required. The classifications and safety assurance programmes must be certified by a recognised engineer for Greater Wellington (as the regulator) to approve.

The Act has provision for a dam owner to become an *accredited* dam owner. The criteria for accreditation have yet to be set by regulation but the requirements are likely to be extensive. An accredited dam owner does not need to have their dam classification and safety assurance programme certified by a *recognised* engineer for the Regional Authority to approve. (A Regional Authority can only refuse a classification or safety assurance programme if it has not been certified by a *recognised* engineer.)

Greater Wellington's dams will also need to be assessed under the Dangerous Dam policy.

4. Communication – How the provisions affect Greater Wellington

There is a significant amount of work involved in implementing the requirements of the Act. The Regional Authorities have been working closely together to minimise the amount of work each council needs to do and to avoid duplication.

Building Consent Process

Greater Wellington is working with the other Regional Authorities to develop common documentation to meet the accreditation and registration requirements. Local Authorities have already worked successfully in 'clusters' to implement actions required by the Act. The cluster model has proved to be both efficient and to the satisfaction of the Department of Building and Housing. Once Greater Wellington becomes a registered Building Consent Authority it is likely contractor/s will be engaged to processes and monitor any building consent applications for dams received. Greater Wellington staff will need to oversee the process, ensure appropriate contractors are engaged and undertake the formal grant/decline process.

Regional Authorities are, however, collectively looking at the feasibility of transferring powers for the processing of building consents, and there is some desire amongst Councils to go down this path if possible. Regardless of the outcome of this discussion, Greater Wellington will still be required to become registered.

Dam Safety

Greater Wellington will need to develop a system to record and track dam classifications and dam safety assurance programmes provided by dam owners.

Once Greater Wellington adopts a dangerous dam policy we will need to engage suitably competent technical specialists (likely to be at Greater Wellington's expense) to assist staff in determining whether a dam should be classified as a dangerous dam. While the cost of this work to Greater Wellington cannot be accurately determined (in the absence of regulations), it is potentially significant.

Dams owned by Greater Wellington

All dams owned by Greater Wellington have policies and procedures in place for their management. Therefore, the requirements of the new Act are unlikely to have any significant impact on the operation and management of the dams.

The monitoring systems currently in place are likely to meet the proposed dam safety assurance programme requirements.

Once the regulations have been finalised and gazetted the current systems will be reviewed to ensure they comply with the new requirements. Each of the dams will need to be classified and certified by a *recognised* engineer.

At this stage, we have yet to decide whether to become an accredited dam owner, however the engineers we currently engage to assess, monitor and certify our dams are unlikely to be *recognised* engineers. The benefits of Greater Wellington becoming an accredited dam owner can only be fully assessed when the regulations are published.

Miscellaneous

There are also a number of other ancillary tasks that Greater Wellington needs to undertake to ensure the Building Act 2004 is properly implemented. These tasks include:

- Developing a charging policy for processing and monitoring building consents, including charging and collecting Department of Building and Housing Levy.
- Updating the delegations manual to allocate responsibilities under the Act to Council and staff.
- Developing policies and procedures for the enforcement provisions in the Act, including warrants and fines.
- Managing information related to all dams as defined in the Act in the region.

5. Summary

The implementation of the requirements of the Act will be both administrative and financially significant for all Regional Authorities. Regional Authorities have been working collaboratively for some time around the implementation of the Act. The collaborative approach has proved very valuable both in terms of generating efficiencies as well as the production of consistent information. It has also helped considerably in relation to providing a coherent collective viewpoint to the Department of Building and Housing.

6. Communication

Greater Wellington will:

- Provide guidance information to dam owners regarding the new requirements of the Act.
- Hold workshops, or meet with individual dam owners, to provide further help and guidance on the Act requirements.
- Continue to work closely with the other Regional Authorities.

7. Recommendations

That the Committee recommend that Council:

1. *Receive the report; and*
2. *Note the contents.*

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Attachment 1: Do you own or manage a dam? (Paper prepared by Department of Building and Housing.)