

## Update on Building (Dam Safety) Regulations 2022

28 March 2024

On Thursday 28 March 2024, MBIE announced a change to the definition of a classifiable dam in the Building (Dam Safety) Regulations 2022, due to come into effect on 14 May 2024.

MBIE has provided the following messages to assist communication with dam stakeholders:

- 1) **Changes to classifiable dam thresholds, as of 28 March 2024**
- 2) **An updated summary of the Building (Dam Safety) Regulations 2022, due to commence on 13 May 2024.**

### 1) Changes to classifiable dam thresholds, as of 28 March 2024

- The Government has announced its decision to progress changes to the [\*Building \(Dam Safety\) Regulations 2022\*](#) that are due to commence in May 2024.
- The regulations will no longer apply to dams that are less than four meters high, regardless of their storage volume. The height and volume thresholds for classifiable dams are being raised to four metres or higher and 20,000 or more cubic metres of stored liquid.
- MBIE states that this change aligns classifiable dams with the size thresholds for new dams that require a building consent. In the view of MBIE, this provides a consistent size threshold for when owners of new and existing dams need to engage with their regional council.
- MBIE estimates there will be 1,900 fewer dams impacted by the amended regulations. MBIE states that this will:
  - free up specialist engineering resources to focus on dams that represent the greatest risk,
  - supporting classifiable dam owners to meet their obligations on time,
  - progress risk reduction work under dam safety assurance programmes and
  - providing an estimated reduction in compliance costs for owners of small dams by more than \$13.3 million every five years.
- MBIE states that these changes are being confirmed as promptly as practicable to allow dam owners as much time as possible to understand the revised obligations. Additional feedback from farmers and growers highlighted concerns that the cost of compliance with the new regulations were not proportionate to the risks smaller dams pose. MBIE identified options to amend these thresholds and conducted a targeted consultation seeking feedback from parties most likely to be directly affected by the potential changes.

- MBIE report that there was mixed feedback from the consultation. Parts of the sector preferred retaining the existing thresholds and parts of the sector supported the option to amend the threshold of a classifiable dam to those that have a height of 4 or more metres and hold 20,000 or more cubic metres of water or other fluid.
- It is expected that changes to increase the height and volume threshold will exclude some medium and high potential impact dams. Regional councils have authority under the Building Act 2004 to take action if a dam poses immediate danger to the safety of persons, property or the environment.
- The sector highlighted other concerns about professional and technical resourcing and the impact of that on dam owners meeting the regulatory deadlines. MBIE state that changing the threshold of a classifiable dam will reduce the number of dams needing assessment, and free up technical resource to support owners of classifiable dams to meet their obligations on time.
- MBIE acknowledges that some small dam owners may be well on their way to meeting the regulations with the threshold change meaning their dams are no longer impacted. MBIE consider that this effort is not wasted. Regardless of size, owners are encouraged to understand the potential impact if their dam was to fail and have safety plans in place to safeguard the surrounding area against disproportionate risk.
- MBIE state that understanding the potential impact of dam is important, even if the dam is not subject to these regulations.

**2) An updated summary of the Building (Dam Safety) Regulations 2022, due to commence on 13 May 2024:**

- The [Building \(Dam Safety\) Regulations 2022](#) ensure that dams over a certain size are well operated, maintained and regularly monitored. They also ensure that potential impacts of dam incidents and failures are identified and reduced to protect people, property, and the environment.
- On 13 May 2024, the regulations commence having given dam owners two-years to prepare for their new responsibilities. They will have a further three-months to complete the initial requirements, including submitting a potential impact classification (PIC) to the regional authority.
- Owners of certain dams will have a further one to two years to put in place a dam safety assurance programme. You can learn more about the timeframes, and which dams this applies to, on the [Building Performance website](#).
- For a dam to be considered classifiable under the new regulations, it will need to be 4 metres or higher, and hold 20,000 cubic meters or more of liquid - the equivalent of eight

Olympic-sized swimming pools - most small farm dams, stock water drinking ponds and weirs will not be subject to the new regulations. You can find guidance on how to measure your dam on the [Building Performance website](#).

- For dam owners, failure of a dam can impact their business and livelihood. Taking an active approach to managing and maintaining their dam is a risk mitigation measure, just as a farmer would maintain large machinery such as tractors, or haymaking or milking shed equipment and machinery. These regulations will support dam owners to protect themselves and others from the potential impact of their dams now and into the future, especially in the face of additional pressures from climate change.