

G01 When is a Building Consent Required?

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1. WHEN IS A BUILDING CONSENT REQUIRED

All building work must comply with the building code regardless of the size of the dam and regardless of whether building consent is needed (section 17 of the Building Act (the Act)). It is the code that sets the standards for building work. A building consent is part of an assurance process.

ORC has a policy on enforcing the building code and staff shall comply with that policy.

The construction or alteration of a dam that is a "large dam" (or will become a large dam by virtue of the alteration) requires building consent before building work commences.

A building consent cannot be granted retrospectively. Building work that required building consent and was undertaken (even in part) without a building consent may be required to be the subject of an application for certificate of acceptance.

Resource consent may be required under the Resource Management Act from the RA and/or the territorial authority regardless of whether building consent is needed. Public information shall clearly communicate this requirement.

2. DEFINITIONS OF BUILDING WORK AND DAM

Building work is defined in section 7 of the Act. Building work includes sitework. Sitework is also defined in section 7. Public information shall clearly communicate this matter, especially when informing owners as to whether building work can commence without building consent.

The Act uses definitions of dams and appurtenant structures which apply to both building control and dam safety management (Part 2, Subpart 7). The definitions are given in section 7 of the Act. It is noted that a dam, as defined in the Act, includes:

1. A flood control dam (e.g. DS0158 Horne Creek detention dam), and
2. A natural feature that has been significantly modified to function as a dam (e.g. DS0035 Sarah Sue reservoir), and
3. A canal (e.g. DS0005, Deep Stream Hydro).

The definition of dam expressly excludes a stopbank designed to control floodwaters.

Two fundamental questions that need to be considered by dam owners, the ORC and the territorial authority are:

- Which structural elements are regarded as part of the dam in terms of the Act (i.e. what are the appurtenant structures)?
- Which organisation has regulatory control for each structural element - the regional authority or the territorial authority?

It is noted that changes during construction, such as moving a control valve from the upstream to downstream end of a tunnel may change what is regarded as appurtenant.

3. EXEMPT BUILDING WORK- SCHEDULE 1

Schedule 1 of the Act specifies certain work that is exempt from the need for building consent. However all building work must comply with the building code regardless of whether it requires building consent (Section 17 of the Act). It is the code that sets building standards. Schedule 1 does not define a class of dam for which building standards can be relaxed or disregarded.

Clause (k) of Schedule 1 cannot be applied to dams or their appurtenant structures. That is because Schedule 1 expressly provides for dams (in Clause (da)) and Clause (k) uses the expression "*any other building work*".

Clause (a) of Schedule 1 of the Act specifies that repair and maintenance work is exempt in certain situations. The ORC will generally consider Clause (a) applies to:

- Work that is necessary or desirable for ensuring that existing components and structures will reliably perform their design function, and;
- The work in itself is not the creation of a permanent or temporary appurtenant structure.

It is noted that the DBH's publication BCA Update May 2008 states that building work that requires a building consent includes (amongst others);

- "- Replacement of a specified system (e.g. an air-conditioning system);
- Replacement of building materials that contribute to the building's structural behaviour or fire safety properties (e.g. a load-bearing wall)."