

Practice Note:

Information to be lodged for retakes, off-line damming and diversions

This document provides advice on the expected level of detail for ancillary activities associated with a 6-year replacement water take and use application. The document relates to the following activities where a **6-year or less** consent duration is sought:

- Retakes of water from water races and off-line reservoirs/dams
- Off-line (out of stream) damming
- Diversion of water in a river to facilitate a water take

Retakes

Why are consents required?

Water in water races and reservoirs is 'water' under the RMA. To be able to take and use this water the take has to be authorised by s14(3) of the RMA (this only applies to domestic and stock water), permitted under the Regional Plan: Water (RPW) or a water permit obtained. Only small rates and volumes can be taken as permitted activities.

For more details refer to practice notes:

- What is 'water' – orc.govt.nz/WhatIsWater
- New surface water and connected groundwater take and use applications – orc.govt.nz/PNNewSurfaceWater

When is a retake consent required?

A retake consent will often be required when water is being taken out of a water race or reservoir for activities other than domestic supply or stock water supply (e.g. when water is being taken for irrigation) and when the reservoir requires a resource consent for damming (see below). Further details are in the above practice notes.

Council can consent a retake when we are processing a primary take from a river. If a primary water take is already consented, we can process this as a separate water permit. This may be necessary where there is a new off-line dam.

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What information is needed for a retake consent?

- For small properties – GPS location of the retakes and purpose of water use (e.g. irrigation)
- For large properties – GPS locations of the retakes **or** schematic plans showing the race and reservoir network with marked up locations of retakes and purpose of use for retakes
- For irrigation schemes – A schematic plan that shows the race network and any reservoirs, an approximation of the number of retakes on the network and purpose of use for retakes.

We are happy to discuss the level of detail required for your particular application. Please contact us to discuss.

How will Council process the retake consent?

We will:

- confirm that retake consents are required
- note that retakes have been applied for in the recommending report
- the effects of the retake will be considered as part of the limited matters of control/discretion for the primary water take
- for retakes that are not processed with a primary water permit we will consider effects of the retake on natural and human use values and water efficiency. These will be very limited considerations and there is template wording that job managers can use.
- add the retake locations to the water permit as map references or an appended map or add the retakes to your off-line damming consent.

Off-line Damming

Why are consents required?

Water in a reservoir is water under the RMA and any damming of water that is not permitted requires a consent under the RMA to be legal. See above practice notes. For more details refer:

Practice Note: [Consents for Offline Dams and Reservoirs](#)

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When is an off-line damming (water permit) consent required?

A consent will be required when the damming results in more than 20,000 cubic metres of water being dammed or/and where the water immediately upstream of the dam structure is more than 3 metres deep (refer to Figure 1 below). Where a pond or reservoir has no structure that is damming water then there is no damming occurring (refer to Figure 2 below).

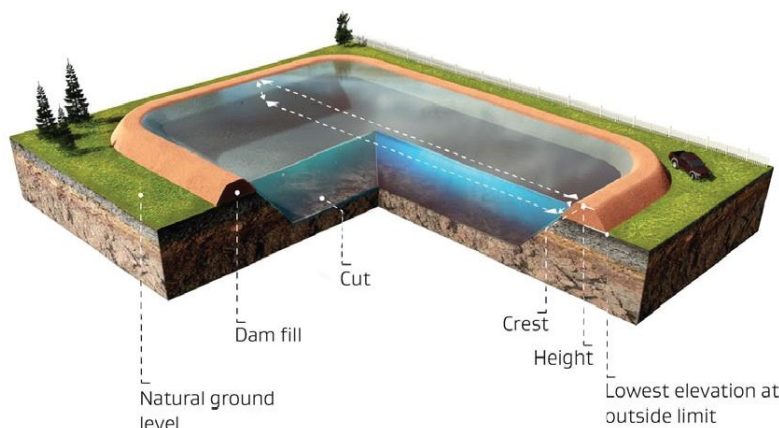


Figure 1: turkey nest dam (requires consent if above permitted activity thresholds)

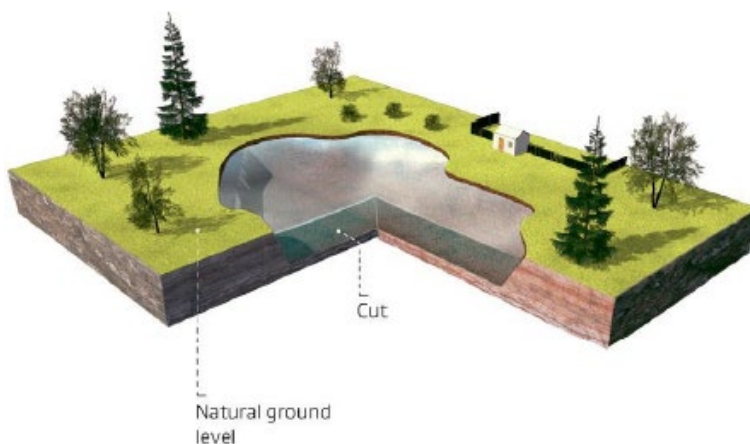


Figure 2: pond cut into ground (no damming occurring)

Source: [Dam Safety Guidance \(building.govt.nz\)](https://www.building.govt.nz/dam-safety-guidance)

Consents may also be required from any discharges from the dam to water or that may enter water (e.g. spillway discharges). These will only be required if the damming requires consent.

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What information is needed for an off-line damming consent application?

Information to be lodged with a 6-year damming and discharge consent application

Information	Guidance
Location	NZTM 2000 map reference of damming location and map showing dam location and reservoir area. Legal description(s) of dam structure and reservoir.
Purpose of the dam	e.g. irrigation water storage
Maximum volume of water able to be stored by the dam and maximum height of the dam	Guidance on calculating can be found in Dam Safety Guidance (building.govt.nz) Note any freeboard in the dam
Sources of water to the dam and off-takes	Confirm consented takes, permitted takes and scheme water that supplies the dam. Confirm off-takes from the dam (helpful to show location on plan)
Details of dam surrounds	Are/will the dam, reservoir and berms be fenced from stock? Are the dam crest and berms vegetated with grasses only?
Consequences of failure	For a dam with low risk (less than 20,000 cubic metres of fluid storage and no buildings/cultural/historical sites or critical and major infrastructure in the dam break zone) this assessment could be done by a non-expert
	For a dam with some potential risk or larger volumes – dam break/flooding assessment as a minimum in accordance with initial PIC assessment by suitably qualified engineer
Fault lines and landslip risk	Are these a risk factor for the dam and its location?
Nature, age, material and condition of dam	Level of detail contingent on size and risk Outline design features to ensure stability of the structure (e.g. batter slopes and a spillway in case of accidental overfilling)
What fluid the dam holds	e.g. confirmation that only water
Information on any discharges from the dam if these will be to water or are likely to enter water	e.g. the location of any spillways. Indication of frequency of discharges from the dam or when these are likely to occur (e.g. accidental overfilling only).
Identification of whether the damming is adjacent to any natural inland wetlands or Regionally Significant Wetlands	The location of Regionally Significant Wetlands can be found here: Regionally Significant Wetlands (orc.govt.nz) Information about natural inland wetlands can be found here: Defining 'natural wetlands' and 'natural inland wetlands' Ministry for the Environment
Identification of whether the reservoir is a recreation asset, provides amenity values, has any heritage values	Confirm if dam is located on private land and if any public access
Confirm if holds any insurance in case of dam failure	
Policy assessment	Form 2 (Application to Dam Water) has a section that can be used for this

Where a primary application is already lodged with Council, the following information could be provided in table format for the dams to be consented. Alternatively, Form 2 can be used.

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How will Council process an off-line damming permit?

If the damming was carried out by a resource consent or other lawful authority previously, the damming application is a restricted discretionary activity and consideration of the damming is limited to matters in the rule. If the damming has not been previously authorised or is a new activity, then it is a discretionary activity. Similar matters will be considered for these damming permits. The key considerations will be (these will not be relevant for all):

- Flooding, erosion, land instability and property damage from dam break, overflows etc
- Erosion and sedimentation resulting from any dam discharges
- Whether any wetlands or other water permit takers will be affected by the damming
- Whether the damming/continued damming (including reservoir) has any adverse or positive effects on cultural values, recreation, public access, heritage, natural character.

When processing the off-line damming with your water permit/deemed permit replacement, Council is likely to use a hybrid activity status approach. What this means is that we will not bundle all the applications together and consider them restricted discretionary/discretionary. We will continue to process the water take and use application under Chapter 10 of the RPW with the limited matters of control and discretion including no public notification or affected parties.

For the damming, we are required to consider whether the adverse effects of the damming are minor or not to determine whether or not to publicly notify. We will also need to consider the nature of effects on other people. If these are greater than less than minor than they would be considered affected persons.

For both of these decisions, we will take into consideration the 6 year term, nature of the activity and the limited range of potential effects (listed above). If the dam is located on the applicant's property, is not adjacent to a natural inland wetland/regionally significant wetland or other high value ecological area, has no connection with nearby rivers, the flooding/dam safety risk is low and any dam break would be contained on the applicant's landholding and not put any buildings/roads at risk, then the application is likely to be processed non-notified and there are unlikely to be any affected parties.

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What conditions will be on my off-line damming permit?

The following types of conditions are likely to be imposed on an off-line damming consent:

- Damming to be undertaken in accordance with application
- Dimensions of dam
- Requirement for the consent holder to inspect the dam every 12 months for internal erosion, slumping, seepage and to take a photo record. This condition does not require an expert assessment and can be done by the consent holder
- Requirement to ensure dam structure is operated and maintained so that it remains structurally sound
- There may be a requirement to vegetate the dam and berm with grasses only and to fence of the dam, berm and reservoir from stock – the practicality of this would be discussed before being imposed
- If the dam is identified as medium or high PIC then there may be additional conditions related to more frequent and detailed inspections of the dam including a 5 yearly inspection by a suitably qualified engineer and the preparation and operation in accordance with an Operation, Maintenance and Surveillance Manual. Note there may be additional requirements for these dams under the Dam Safety Regulations 2022 such as the preparation and implementation of a Dam Safety Assurance Programme and preparation of an annual dam compliance certificate

What other requirements should I be aware of for my off-line damming?

Building Consents: If your dam has a height of 4 or more metres **and** stores 20,000 cubic metres or more of water, or other fluid then a Building Consent for the dam is required. Environment Canterbury process all Building Consents and Code Compliance Certificates for Otago. For more information on this please contact Kate Rutherford at kate.rutherford@ecan.govt.nz

Dam Safety Regulations 2022: These came into force from **13 May 2024**. These new regulations set a minimum standard for dam safety and apply to **classifiable** dams. As a general guide, classifiable dams have a height of:

- 4 or more metres and stores 20,000 or more cubic metres volume of water, or other fluid
- 1 or more metres and stores 40,000 or more cubic metres volume of water, or other fluid.

As part of this, the dam owner will need to submit a potential impact classification (PIC) to the regional authority within 3 months of the regulations commencing.

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The Ministry of Business, Innovation and Employment (MBIE) website [Managing dams to ensure they are safe | Building Performance](#) has information on what these regulations mean for dam owners.

What about weirs?

Many weirs dam and impound water and require consent for damming if the permitted activity rules for damming cannot be met. Often this is because the catchment area above the weir is greater than 50 hectares (rather than volume or height restrictions). Damming applications for weirs will require similar information and be processed in a similar manner to off-line dams and diversions associated with water takes (see above and below).

Diversions associated with water takes

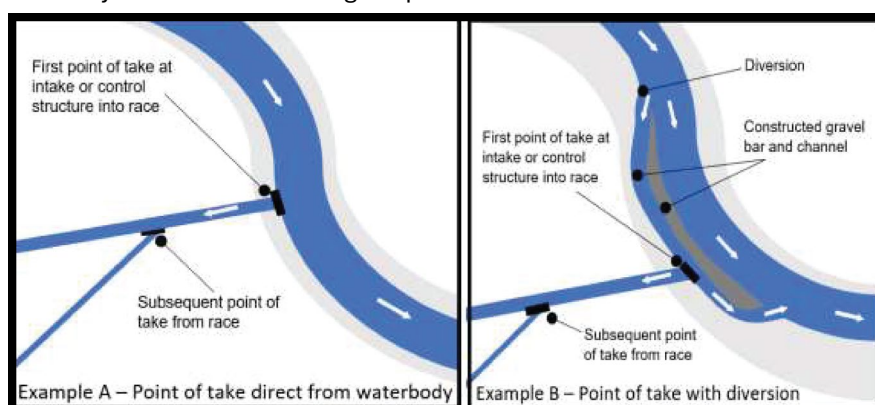
Why are consents required?

Any water that is being diverted requires a consent if it is not permitted by regional rules. Diversion of water is where the flow of water is redirected from its existing course to another. There can often be diversions where the flow of a river is directed into a manmade channel to enable a water take to be safely taken out at a point along the channel. This results in less of the natural flow of the river remaining in the riverbed which can have consequential effects on the values in the reach of the river that is diverted.

When is a diversion consent required?

It is first necessary to identify where the point of take is for the water take. This will be where there is control of the water taken out of the source waterbody. Further details are in: [Practice note: technical information for water take and use applications](#).

The diagram below may assist in determining the point of take:



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There may be a diversion of water if the water take is not direct from the river. We can provide advice on whether you are diverting water if you are unsure.

What information is needed for a 6 year diversion consent?

Information to be lodged with a 6 year diversion damming consent application

Information	Guidance
Location and length of diversion	Start and end NZTM 2000 map references and length of diverted reach
Proportion of flow that is diverted at low flows	A justified estimate is acceptable
Diversion operation frequency	When does the diversion operate (time of year and frequency)
History of flooding, erosion, land instability, sedimentation or property damage associated with the diversion	Historical information related to diversion operation Any evidence of land instability or erosion related to the diversion Description of what occurs in the diversion when the flows in the river are high (i.e. flood flows)
Existing natural and human use values in reach of river diverted (e.g. fish species, cultural values, heritage values, recreational values, natural character)	Based on local knowledge and readily available information including any ecological/cultural/other reports that may have been prepared for other consent applications or the original water take consent application
Land ownership for diversion location	Confirm if this is the applicant's land. Written approval of landowner may be required if not.
Identify if diversion is within, adjacent or near a Regionally Significant Wetland or natural inland wetland	The location of Regionally Significant Wetlands can be found here: Regionally Significant Wetlands (orc.govt.nz) Information of natural inland wetlands can be found here: Defining 'natural wetlands' and 'natural inland wetlands' Ministry for the Environment
Identification of any other water users close to or within the diversion	
Policy assessment	Form 2 (Application to Dam Water) has a section that can be used for this

How will Council process a 6 year diversion consent?

This processing approach will be similar to a 6 year damming consent. These diversion consents will be processed along-side the water permit take and use replacement and the hybrid activity status approach will be applied.

We will need to consider the effects of the diversion, but we will limit our consideration to the 6 years and will keep in mind the intent of Plan Change 7. Where these diversions are existing and there is no change to what has been occurring, the matters of consideration will be limited for this consent process¹. We will

¹ There may be additional and a more detailed consideration of the diversion activity when the consent is replaced under the Land and Water Plan in 6 years' time.

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need to make a decision on notification and affected parties and do need sufficient information and understanding of the activity to make these decisions. The key effects we will consider are:

- Potential for flooding, erosion, land instability and property damage from the diversion. If the diversion is well contained on the applicant's property this effect is likely to be limited
- Effects on aquatic habitat for the continued diversion -ensuring that fish passage is maintained or restricted as necessary
- Effects on any other natural and human use values including cultural values and other water users from the continued diversion

What conditions will be on my diversion permit?

A diversion associated with a water take and use can be on one water permit (i.e. the water permit could be to take, use, retake and divert water). The following specific conditions are likely to relate to the diversion on the water permit:

- Diversion to be undertaken in accordance with application
- Location of diversion
- Diversion channel dimensions or details – if relevant
- Requirement to maintain fish passage – if relevant
- Requirement to not cause flooding, erosion, land instability, sedimentation or property damage or any other person's property
- Requirement to maintain the diversion so it operates as designed

What will be the future consent requirements for these activities?

The Land and Water Plan is proposed to be notified at the end of 2023. This will outline the objectives, policies and rules that relate to water management in the region. At this point, we do not know if the consenting requirements for the above activities will change.

We would encourage you to engage with the land and water plan process where you are able to as this will establish future water management for the region.

Need more information?

If you have questions about applying to replace your water permit, you can call us on 0800 474 082 or email us at public.enquiries@orc.govt.nz or refer to the Council's website www.orc.govt.nz

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