

5 August 2019

Ministry of Business Employment Innovation
Dam Safety Consultation 2019
PO Box 1473
WELLINGTON 6140

Via email to damsafety@mbie.govt.nz

Dear Sir/Madam

Re: Proposed Regulations for Dam Safety

Please find attached a submission on the Ministry Business Innovation Employment (MBIE) proposed regulations for dam safety.

Please do not hesitate to contact me if you require any further information on this submission.

Yours sincerely

Sarah Cameron
Senior Policy Analyst

TO: MBIE
SUBMISSION ON: Proposed Regulations for Dam Safety
NAME: New Zealand Kiwifruit Growers Incorporated (NZKGI)
ADDRESS: PO Box 4246, Mount Maunganui South 3149

1. Background to NZKGI

NZKGI was formed in 1993 to give kiwifruit growers their own organisation to develop a secure and stable kiwifruit industry. NZKGI represents 2,600 kiwifruit growers and gives growers their own voice in industry and government decision making. NZKGI works to advocate, protect and enhance the commercial & political interests of New Zealand kiwifruit growers.

2. The kiwifruit industry in New Zealand

The kiwifruit industry is a major contributor to regional New Zealand returning \$1.8b directly to rural communities in 2018/19. There are 2800 growers with 14,000ha of orchards with 7700ha green and 6300ha gold. The industry has 10,000 permanent employees and up to 25,000 jobs during the peak season. Approximately 80% of New Zealand's kiwifruit crop is grown in the Bay of Plenty.

3. General comments

While NZKGI is generally supportive of the proposed regulatory framework including regional authority requirements, we provide the following comments on orchard frost and irrigation ponds.

4. Frost and Irrigation ponds

Frost and irrigation ponds are generally 'in ground' with a small raised embankment (see picture below)



The height from the crest of the dam to the top of the embankment is generally .5 metre which allows for rainfall capture. A building consent is not required for small dams under four metres high with a water volume under 20,000 cubic metres. NZKGI is not aware of a pond exceeding 20,000 cubic metres on a kiwifruit orchard however it is possible. The largest cubic metre area we could find is 11,000.

5. Legislation

Under current legislation, the definition of a dam under section 7 of the Building Act:

a. means an artificial barrier, and any connected structures, that -

- i. is constructed to hold back water or other fluid under constant pressure so as to form a reservoir*
 - ii. is used for the storage, control, or diversion of water or other fluid*
- b. includes:*
 - i. flood control dam,*
 - ii. a natural feature that has been significantly modified to function as a dam*
 - iii. a canal; but*
- c. does not include a stop bank designed to control flood waters.*

Under the proposed regulations the definition of a dam is one that:

(a) a height of 4 or more metres and holds 20,000 or more cubic metres volume of water or other fluid; or

(b) a height of less than 4 metres and holds 30,000 or more cubic metres volume of water or other fluid.

NZKGI submits that by removing the wording relating to artificial barriers, this will create ambiguity and that the new definitions are not specific enough.

NZKGI understanding is that the height of a dam is defined as a vertical measurement from the crest of the dam for a dam not across a stream, from the lowest elevation at the outside limit of the dam. It is not clear whether the wording dam not across a stream relates to 'in ground dams'. While the consultation document briefly touches on 'in ground dams', NZKGI requests clarification from MBIE if the intention is to include 'in ground dams' in the proposed regulations. It is currently NZKGI view that orchard frost and irrigation ponds do not meet the proposed definition of a dam.

6. IrrigationNZ and HorticultureNZ submissions

NZKGI supports the submissions from IrrigationNZ and HorticultureNZ

7. Further discussion

NZKGI welcomes further discussion with MBIE on the proposed changes.