

## Guidance Notes for Tukituki Production Land Use Consent Applicants

**Before you start** filling out the application form, please note:

- You must have an up-to-date Farm Environmental Management Plan (FEMP) that reflects your current farming operation, to submit with this resource consent application. This must include the HBRC Two Tier Risk Assessment matrix.
- The level of detail in your consent application must correspond with the scale and significance (environmental effect) of your farming operation.
- Check if your farm meets the definition of a *low intensity farming system*<sup>1</sup>
- This guidance note should be read in conjunction with the Procedural Guidance<sup>2</sup>

Each of these points is explained in more detail below:

### **Farm Environmental Management Plan (FEMP):**

A 'Farm Environmental Management Plan' (FEMP) is a farm environmental management plan for the whole farm which addresses environmental risks associated with irrigation management, animal effluent management, nutrient management, stock management and soil management, and must be prepared in accordance with the requirements listed in Schedule XXII of the Regional Resource Management Plan.

A FEMP must be prepared by a person with the appropriate professional qualifications, as it must account for all sources of nutrients used/generated by the farming activity and identify all relevant nutrient management practices and mitigation measures, including industry 'good practices', that are, or will be, undertaken on the property/enterprise, and outline how property nutrient allowances are/will be achieved.

Your FEMP must accurately reflect your current farming operation. This means if you have made significant changes to the way that you run your farm, and in particular the stock classes you run, and/or how much cropping you do, since your FEMP was prepared, or most recently reviewed, then you will need to have your FEMP reviewed and updated before you apply for resource consent.

The FEMP should have been reviewed and updated as required before May 2021 by an approved FEMP provider. A list of approved providers is available on the HBRC website.

The FEMP should recognise key areas of nutrient loss risk on the farm and propose measures to reduce these potential risks. The FEMP must include an assessment using the HBRC Two Tier Risk Assessment Matrix. This will enable the potential N loss risks of the farm to be categorised as low, medium, or high.

### **Nutrient Budget (NB):**

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<sup>1</sup> **Low intensity farming system**

Means farm properties or farming enterprises that contain no more than 8 stock units per hectare including:

- permanent horticultural and viticultural crops (such as orchards, vineyards) and lifestyle properties; but does not include:
  - a) Properties used for the production of rotational vegetable crops;
  - b) Dairy farms;
  - c) Grazed forage crops

<sup>2</sup> Available on the HBRC website (search #Tukituki)

A Nutrient Budget (NB) is a statement of the total nutrient balance for a particular farm property or farming enterprise, accounting for all the nutrient inputs and all the outputs. It must be prepared or approved:

- (i) using standard protocols recognised and approved by the Hawke's Bay Regional Council such as "Overseer Best Practice Input Standards"; and
- (ii) by a person who is a Certified Nutrient Management Advisor or who has completed both the "Intermediate" and the "Advanced" courses in "Sustainable Nutrient Management in New Zealand Agriculture" conducted by Massey University.

Refer to the Procedural Guidelines for comments on the impact of the Government's review of overseer and the impacts on its use for regulatory purposes. In summary, Overseer nutrient budget may still be useful for collating farm data and assisting FEMP providers to assess risks from different practices on a farm but cannot be relied on to provide accurate numerical N loss estimates. These should not be used to inform regulatory decisions.

Where a nutrient budget is used, it should have been prepared using the latest version of Overseer.

Council requires all nutrient budget(s) data, where it is used to support a consent application, to be submitted using Overseer FM. All data inputted into Overseer is now in an online platform, with different levels of access for the farm. We require a version of your farm's nutrient budget(s) to be 'published' to our Overseer FM account (Hawkes Bay Regional Council). You can also choose to include a printed copy of this analysis with your application, but access must be given electronically.

The 'published' file is 'read only' access to the Council, so we cannot make any changes to it. It represents the farm's nutrient budget analysis and information at the time it was published. Any subsequent changes will require another publication, and you will need to supply the new reference number to the Council.

The Overseer FM user guide link below, explains the levels of access in more detail on page 18.

<https://docs.overseer.org.nz/fm/OverseerUserGuide.pdf>

One published version should represent the system that you are seeking consent for. Multiple published versions may be required to support your application, for example, if you are proposing to decrease your Nitrogen leaching after a set number of years you may need a 'predictive' budget to represent this scenario. When you publish a file, please name it using the following convention:

Dairy farms: use supply number (no spaces) and scenario name/number

Other farms: use physical address (no spaces) and scenario name/number

For example:

*700ExampleRoadConsentScenario*

*700ExampleRoadYearXScenario*

### **Where Overseer is not used**

If you decide, in consultation with your FEMP provider, not to use Overseer, you will need to gather specific input data for your farm and provide this to your FEMP provider so that the Two-Tier Risk

Assessment can be undertaken. This data will need to be provided with your application to show how the calculation has been made.

**NOTE: A copy of the HBRC Two Tier Risk Assessment matrix must be provided with every application regardless of whether an Overseer nutrient budget is provided or not.**

### **Level of Detail:**

An application for resource consent must contain a level of detail that corresponds with the scale and significance of the effects that the activity, for which resource consent is being sought, may have on the environment.

For example, if your farm is 15 ha in size, you run only sheep, at a low stocking rate, and it comes out as 'low risk' under the risk assessment matrix, then you should be able to complete this application form yourself (assuming you have an up-to-date Farm Environmental Management Plan prepared by appropriately qualified persons).

### **Some other useful information to assist with completing your consent application:**

#### **Reference to farm plans**

All information Council holds is 'official' public information under section 2 of the Local Government Official Information and Meetings Act 1987 (LGOIMA), as such any and all information may be requested by a third party. We understand some of what is contained in your FEMP is commercially sensitive information that you would not like to be made freely available to the public. Application Form B makes it easy for you to request withholding your FEMP in Q19. If you do request your FEMP to be kept confidential you must answer the FEMP related questions in Application Form B fully, so any person reading the consent application form can gain enough understanding of the proposed activity and its effects.

If you do not require your FEMP to be kept confidential, you can refer to the sections in your FEMP that answer the relevant application Form B questions, instead of repeating the information. Where you want to do this, please provide details of where in your FEMP the relevant information can be found (e.g. on page 4, under the heading Phosphorus Mitigations). Not providing these pointer/directions could result in your consent application not being accepted for processing by HBRC. For more information as to how your information will be treated, please see "Official Information" at the end of this pamphlet.

### **Activities for which you may require resource consent:**

#### Essential Freshwater

On the 3<sup>rd</sup> of September new regulations from Central Government came into force under the 'Essential Freshwater' package. For some landowners, this may mean applying for consent for certain farming activities, or changing certain practises:

- Intensive Winter Grazing (IWG) of forage crops
- Stockholding areas
- Feedlots
- Land Use Intensification
- Synthetic Nitrogen Use

- Stock Exclusion (The Tukituki catchments stock exclusion rules apply from 31<sup>st</sup> May 2020. New regulations under Essential Freshwater apply from 2023 or 2025 for existing operations. Any new permanent fencing completed from the 3<sup>rd</sup> of September 2020 should have a minimum setback of 3m from a waterway. For more information on the Essential Freshwater Stock Exclusion see:

<https://environment.govt.nz/what-government-is-doing/areas-of-work/freshwater/e/freshwater-reform/factsheets-on-policies-and-regulations-in-the-essential-freshwater-package/>

If you require a Tukituki Production Land Use consent, other consents under the NES FW that are known to be required, can be applied for at the same time. At this stage, we would not recommend that IWG consents are sought with Tukituki land use consents. This is because these regulations are undergoing further change. The nature and extent of these changes are not yet known.

If IWG is part of your farm system you should ensure that a winter grazing module is completed and included in the FEMP. Various modules are available for use, including from MPI (see: <https://www.mpi.govt.nz/dmsdocument/44863-20212022-Intensive-Winter-Grazing-Module-Template>)

### The Tukituki Catchment Plan

There are three different activities that you may require a land use consent for under the Tukituki Catchment Plan. You could need consent for all these reasons, although this will not be very common. You must fill in the section of the application form for each of and all the activities that you need consent for. You should also identify any known consent requirements under the NES FW.

Some further details on each activity are provided below:

- **Stock Exclusion**

If you have not by 1 June 2020, excluded all livestock (excluding sheep) from the beds and margins of all lakes, wetlands, and rivers within your property/enterprise, then you will require a resource consent, even if you plan to do complete stock exclusion, but you won't finish it until 2025 (for example). Provided that you can supply good justification for the timing proposed, these will be relatively simple resource consents, that are likely to be granted for a duration matching, or slightly longer than your proposed work programme (i.e. if you plan to have all stock excluded by 2025, then your resource consent would likely be granted for a 5–7-year period). The introduction of the Stock Exclusion Regulations means that where it is required by these regulations, it must be completed by the specified timeframes (no later than 2025) and there is no ability to extend these under a resource consent.

- **Sub-catchment exceeds limits**

If your property/farming enterprise is located within (or has more than 4 ha within) a sub-catchment that exceeds the:

- 95<sup>th</sup> % concentration limit of nitrate-nitrogen; or
- limit for dissolved inorganic nitrogen (limits shown in table below)

at the nearest Regional Council monitoring site downstream of your property/enterprise; or

- the groundwater quality limit of a maximum 95<sup>th</sup> percentile concentration of nitrate-nitrogen of 11.3 mg NO<sub>3</sub>-N/L

then you will need to apply for resource consent. The consent will be for the entire property (within the Tukituki Catchment) with the focus being on the area that is within the DIN exceeding sub-catchment. Information about which sub-catchments exceed these limits is

provided at: <https://www.hbrc.govt.nz/environment/farmers-hub/find-my-catchment/>

NOTE: You do not need to apply for a consent if your farm is located within a sub-catchment that exceeds the instream DIN target, but it is a Low Intensity Farming System. A low intensity farm is defined as:

***Low intensity farming system***

Means farm properties or farming enterprises that contain no more than 8 stock units per hectare including:

- permanent horticultural and viticultural crops (such as orchards, vineyards) and lifestyle properties; but does not include:
  - a) Properties used for the production of rotational vegetable crops;
  - b) Dairy farms;
  - c) Grazed forage crops.

These applications will be dealt with by HBRC as a group with all other applications within your sub-catchment, and HBRC will undertake a cumulative effects assessment. This work will include an update on the state and trends of water quality within the Tukituki Catchment and the contribution of each sub-catchment to this.

- **Stock crossings**

If you have not by 1 June 2020, installed a permanent facility (i.e. a bridge or culvert) on all formed stock races that cross permanent and intermittent rivers, then you will require a resource consent, even if you plan to do this soon, but you won't finish it until 2025 (for example). If you intend to do this but just need some more time, your application can focus on justifying why you need that additional time to do the work. If however, you do not intend to install a bridge or culvert, then your application will need to explain what other mitigation measures you have/intend to put in place to reduce the impact, that the ongoing passage of stock across the river will have.

***Leaching less than the LUC leaching rate within a DIN exceeding sub-catchment:***

*If you are assessed as a 'low risk' for N loss under the two-tier matrix tool, the focus of the consent conditions will be on developing and implementing an appropriate FEMP that meets Schedule 22 requirements and ensures that good management practices are being implemented.*

## Details of the Activity

This section of the application form is where you provide the information about where your farm is located, what your farm is like, what your farming activity involves, and what the land around your

farm is like. This information helps HBRC get an understanding of what your farming activity involves, and what the 'lay of the land' is on your farm, as well as the surrounding area.

For example, your answers could be something like "I have a sheep and beef operation where I lamb up to 3000 ewes, and have reasonably big lamb and heifer trading elements, depending on the season. My property is rolling hill country on silty loam soils. There are a couple of decent gullies which have been fenced off and we are in the process of planting. There is a small stream that runs through the northern corner of the property which generally flows all year round, but no other water bodies to speak of. The farms closer to State Highway 50 are a bit flatter as they are on the Plains, and the properties either side have similar land classes to us. The Tukituki River is probably about 1 km away."

### **Assessment of Environmental Effects (AEE)**

As noted above, an application for resource consent must contain an assessment of environmental effects (AEE) to a level of detail that corresponds with the scale and significance of your activity, and additional information, prepared by a suitably qualified person, may need to be provided. Please ensure you answer all questions – writing N/A is not acceptable and will likely result in your consent application not being accepted by HBRC.

When considering the effects of your farming operation, you should be aware that effects can be:

- Positive as well as adverse/negative;
- Temporary or permanent;
- In the past, present or future;
- Cumulative effects that arise over time, or in combination with other effects.

Feel free to mention the positive effects of your farming operation - for example, you might provide employment for 3 people, or your pasture renewal program might result in improvements in soil structure, as well as produce higher quality grass. You may have already made changes to improve environmental outcomes, such as changed the class of cattle that you carry, moving to lighter/younger stock that are more suited to the topography and soil types of your farm. Alternatively, one of the mitigations in your farm plan (i.e. a future effect) might be that you will install reticulated water in the three paddocks that don't currently have troughs, taking away the need for stock to use the stream for drinking water.

### **Cumulative effects assessment**

An AEE must contain a cumulative effects assessment which means that the effects of your farming activity need to be considered alongside the effects of other farming operations near you. This is particularly relevant in sub-catchments that are exceeding the nitrogen or phosphorus limits specified in the plan.

Obviously, this is difficult for an individual to do, so you have the option to agree to have HBRC do this work on your behalf. You may still choose to do this (engage suitably qualified persons to do a cumulative effects assessment), but if you intend to do so, you are encouraged to contact the HBRC to discuss the work that would be required before you get anything done.

Otherwise, you can tick the box agreeing to participate in a joint assessment, and the Council will undertake this work on your behalf, and your application will be placed 'on hold' so that this assessment can be undertaken. This assessment is likely to consist of a review and update of water quality state and trends within each sub-catchment, and consideration of how this relates to the overall water quality in the Tukituki Catchment.

### **Other mitigation proposed**

Some mitigation measures cannot be modelled in Overseer or are not solely N loss focused, even though they will have a positive effect on water quality and aquatic habitat. This might include for example, riparian planting of streams and creeks running through your farm or construction of wetlands. A report completed by the Cawthron Institute assesses and recommends some measures that are known to benefit water quality, and you may wish to propose some of these measures as a way of mitigating some of your effects, particularly if you are a high-risk farm but cannot readily reduce your N loss.

### **Policy Assessment**

An application for resource consent must include an assessment of an activity against all relevant policies and objectives, as well as the purpose and principles of the RMA. To help you do this, we have identified relevant policies and created a table which provides space for you to state whether or not you think your farming operation will help achieve the objective/policy, and why you think that. Please put an answer in each box, or if you think something is not applicable to your farm, please write down the reason why you think that. This also includes consideration against some of the relevant Objectives and Polices from the NPS FM (2020).

### **Resource Management (National Environmental Standards for Sources of Human Drinking Water)**

#### **Regulations 2007**

You will need to check whether your property/enterprise, and your farming activity is near any sources of human drinking water that supply more than 25 people that might be affected by the discharge. This is available on the Drinking-water Register for New Zealand at the following location: <https://www.esr.cri.nz/our-services/consultancy/water-quality-and-sanitation/register-of-suppliers/>. If there is a source close to you, you may need to revisit your FEMP to ensure that your proposed mitigations are enough to ensure that your operation will not have an effect on the drinking water supply. For example, if you have paddocks that are close to a water supply well, you may avoid needing to use them for effluent application or winter break feeding. Make sure you explain any proposed actions clearly in your application.

#### **Resource Management (National Environmental Standards for Freshwater) Regulations 2020**

The Freshwater NES were introduced in September 2020 and set out requirements for carrying out certain activities that could pose risks to freshwater and freshwater ecosystems. Anyone carrying out these activities will now need to comply with the standards.

The standards are designed to:

- protect existing natural inland wetlands
- protect streams from in-filling
- ensure connectivity of fish habitat (fish passage)
- set minimum requirements for feedlots and other stockholding areas
- improve intensive winter grazing practices
- restrict further agricultural intensification until the end of 2024
- limit the discharge of synthetic nitrogen fertiliser to land, and require reporting of fertiliser use.

In some cases, resource consents will also be required under the NES FW. There is more information on the NFE website here:

<https://environment.govt.nz/what-government-is-doing/areas-of-work/freshwater/e/freshwater-reform/factsheets-on-policies-and-regulations-in-the-essential-freshwater-package/>

### **Monitoring**

Monitoring can take different forms – it could be monitoring your soil nutrient levels based on a fertiliser specialist’s recommendations, carrying on with regular Overseer nutrient budgets to track progress, or keeping track of progress towards implementing actions that will benefit water quality (e.g. area of riparian planting undertaken each year).

### **Consultation**

Please provide details of any discussions you have had with anyone that might be affected by your farming activity. You may have talked with your neighbours or other interested people or groups. You may be part of a catchment group, and if so, should explain what you have been working on as part of that group. If you have talked to anyone, please explain what you discussed (for example, you might be going to fence along a boundary and you wanted to work with your neighbour to do this), and what they generally thought about it.

It should be recognised that rivers and streams in the Tukituki Catchment are identified as Statutory Acknowledgment Areas under the Heretaunga-Tamatea Treaty Claims Settlement Act 2018. Other significant areas are also identified (e.g. Inglis Bush. See Appendix 1 for more information). If your farm is located close to one of these areas, you should identify this in your application.

You may choose to talk to tangata whenua about your activity, as they have a strong interest in how water resources are managed. Your sub-catchment group or industry body may also be discussing the water quality issues and the changes in management being proposed with the relevant groups. HBRC will send information about your application to the Heretaunga – Tamatea Settlement Trust. This may generate comments or questions.

### **Consent Duration**

Due to the uncertainty that has been generated as a result of the overseer review and the need for plans to be reviewed to give effect to the NPS FM before the end of 2024, a short-term consent of around 5 years is likely to be recommended in most cases.

### **Official Information**

All information Council holds is ‘official’ public information under section 2 of the Local Government Official Information and Meetings Act 1987 (LGOIMA), as such any and all information may be requested by a third party. Access to information held by Council is administered in accordance with LGOIMA and the Privacy Act 1993. If you have any concerns over the disclosure of any aspect of your consent or personal/property details, you must raise your concern in writing with Council and detail what “good reason” you believe there is for withholding information pursuant to section 7 of LGOIMA for council to then assess. Application Form B makes it easy for you to request this withholding of your FEMP in Q19. Any additional withholding requests can be submitted along with your application.



Please contact Council's Consent Advisor if you have any questions regarding access to information we hold.

**Who to contact?**

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**Appendix 1 – Statutory Acknowledgement Areas**

Statutory acknowledgements have arisen from Treaty of Waitangi settlements and relate to specific areas of importance to a claimant group (known as statutory areas).

Section 28 of the Heretaunga Tamatea Claims Settlement Act 2018 requires the Council to provide to the trustees a summary of each application for an activity within, adjacent to, or directly affecting a statutory area.

Statutory Areas are listed in the Act and are also included as a Schedule in the Regional Plan. Statement of Association are also included that set out the Heretaunga Tamatea's cultural, spiritual, historical, and traditional association with the identified areas. Maps of these areas are contained in the RRMP here: <https://www.hbrc.govt.nz/assets/Document-Library/Plans/Regional-Resource-Management-Plan/Schedules-Maps/Statutory-Acknowledgements.pdf>,

The Statutory Acknowledgment Areas located within the Tukituki Catchment are:

<b>Statement of Association ID</b>	<b>Area/Feature</b>	<b>Deed of Settlement Map Reference</b>
11	Māharakeke Stream (with recorded name Maharakeke Stream) and its tributaries	As shown on OTS-110-26
10	Mākāretu River (with recorded name Makaretu River) and its tributaries within the Heretaunga Tamatea area of interest	As shown on OTS-110-27
12	Tukipō River (with recorded name Tukipo River) and its tributaries	As shown on OTS-110-29
9	Tukituki River and its tributaries within the Heretaunga Tamatea area of interest	As shown on OTS-110-30
15	Waipawa River and its tributaries within the Heretaunga Tamatea area of interest	As shown on OTS-110-31

Areas subject to Statutory Acknowledgment and deed of recognition located within the Tukituki Catchment are:

<b>ID</b>	<b>Area/Feature</b>	<b>Deed of Settlement Map Reference</b>
26	Elsthorpe Scenic Reserve	As shown on OTS-110-07
16	Inglis Bush Scenic Reserve	As shown on OTS-110-09
14	Kāhika Conservation Area	As shown on OTS-110-10
17	Monckton Scenic Reserve	As shown on OTS-110-18
28	Part of Ruahine Forest Park	As shown on OTS-110-22
28	Ruahine Forest (East) Conservation Area	As shown on OTS-110-21
18	Springhill Scenic Reserve	As shown on OTS-110-23
13	Te Aute Conservation Area	As shown on OTS-110-24