Updated April 2021

Tukituki Land Use Consents
Answers to Frequently asked Questions

The Tukituki Catchment Plan sets the freshwater objectives for the Tukituki catchment.

The Council is managing land use activities in the Tukituki Catchment in order to maintain and achieve the limits and targets set in the Tukituki Catchment Plan. A specified target is to achieve the dissolved inorganic nitrogen (DIN) limit of 0.8 mg/L by 2030.

These FAQs have been developed to answer common questions landowners may have about their properties consenting requirements under the Tukituki Catchment Plan.

For more detail on the policies supporting these objectives please follow this link:

https://www.hbrc.govt.nz/assets/Document-Library/Tukituki/Tukituki-Plan-Change-6.pdf

A new deadline for lodgement of 'full' Tukituki Land Use resource consents was set for 26th February 2021. This applied to any property which is leaching more than it's individual LUC Nitrogen Leachate allowance (based on Table 5.9.1D), and **all properties** located in the Kahahakuri or Mangaonuku sub-catchments (unless they are low intensity).

Other sub-catchments, the **Porangahau, Maharakeke, Tukipo and Upper Tukituki** Corridor, will formally exceed their dissolved inorganic nitrogen (DIN) limit of 0.8 mg/L on 31 May 2021. Tukituki production land use consents will be required from all properties larger than 4 ha in these sub-catchments within six months of formal notification from HBRC, unless they meet the 'low intensity' criteria.

The following information will hopefully provide answers to some of your questions regarding the consenting process. If you have submitted a pre application, it is important that once you are able, you work with your FEMP or nutrient budget provider and farm consultant to complete and submit a **full application** to HBRC.

Do I need a consent?

What land use consents might I need?

The triggers for Land use consent are;

1. If your nutrient budget (using Overseer^{FM}) determines that nitrogen leached from your farm operation ***exceeds the farm's LUC leaching limit*** (using Table 5.9.1D), you will need a resource consent for the use of production land on your farm.

LUC Class	I	II	III	IV	V	VI	VII	VIII
Rate (KgN/ha/year)	30.1	27.1	24.8	20.7	20	17	11.6	3

Figure 1. Table 5.9.1D: Tukituki Natural Capital; Nitrogen Leaching Rates

2. If the sub-catchment you are in is ***over the dissolved inorganic nitrogen*** (DIN) limit for that sub-catchment, you and all other farms (excluding low intensity farms), in the sub-catchment will require a resource consent for the land use.
3. If you are ***unable to exclude stock from waterways*** by 31 May 2020 (see further requirements below)
4. If you have not or are unable to install ***required stock crossings*** by 31 May 2020.

If my property does not exceed its Nitrogen leaching allowance, why do I still need a resource consent?

The Tukituki Catchment Plan (PC6) sets in-stream nutrient limits for sub-catchments. The dissolved inorganic nitrogen (DIN) limit is 0.8 mg/L. Once a sub-catchment has returned five years of data (based on 60 monitoring results), showing an average exceeding the 0.8 mg/L limit, the sub-catchment is confirmed as exceeding.

If your farm is located in a sub-catchment that exceeds the Tukituki Catchment Plans DIN limits you are required to apply for a Land use resource consent. Although your individual property is not exceeding its LUC leaching limits, the sub-catchments DIN exceedance means a consent will be required to enable HBRC to investigate the cumulative environmental effects and to monitor that good management practices are being adopted throughout the sub-catchment. Communities need to work together as well as with HBRC, in order to successfully manage the level of DIN in our waterways.

How will the Council be considering changes to Overseer since the original LUC table was produced?

HBRC recognises there have been significant updates to Overseer since Table 5.9.1D was produced. The existing table in the plan must be used to determine activity status of a consent. HBRC have determined an estimated percentage change table under the latest version of Overseer, and the Council processing officer will take where the farm sits in relation to this into consideration when processing the consent. More details about this can be found on the Farmers Hub on the HBRC Website (www.hbrc.govt.nz search #tukituki)

What Sub-catchments are exceeding their Tukituki Catchment Plan Limits (DIN)?

Of the 17 sub-catchments in the Tukituki catchment, two are currently exceeding: (***Kahahakuri and Mangaonuku***). All properties over 4 ha (excluding low intensity farming systems) located within these sub-catchments ***required a resource consent by 26th February 2021***, regardless of their individual Land Use Capability (LUC) nitrogen leaching allowance.

Another four sub-catchments will exceed their DIN limit by 31 May 2021. They are the ***Tukipo, Maharakeke, Porongahau and the Upper Tukituki Corridor***.

What catchment is my farm in?

This should be identified in your FEMP. You can also check which catchment you are in, find out about the current water quality levels in your catchment, and get some tips on good practice on the Farmers' Hub on the HBRC Website (www.hbrc.govt.nz search: #farmers hub).

Why do I need a consent and my neighbour doesn't?

The requirement for resource consent can be due to a number of factors;

1. The leaching rate from your property is exceeding the allocated LUC N leaching rate as determined by your farm environment management plan and associated nutrient budget.
2. Your property is located in a DIN exceeding sub-catchment.
3. You are unable to meet the stock exclusion rules.
4. Small holdings less than 4 ha and low intensity farming systems do not require a land use consent.

What is a low intensity farming system?

'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

I am a low intensity farming system – do I need a consent?

Low intensity farms may need a consent if they have stock (not sheep) that are not excluded from waterways or do not have necessary stock crossings. They are required to have a FEMP if over 10ha and this must be implemented.

There is further information available on low intensity farms, including a checklist and form so that low intensity farms can be registered, at the following link:

https://www.hbrc.govt.nz/environment/farmers-hub/low-intensity-properties/

If my property is located in a DIN exceeding sub-catchment, but currently operating well below my LUC nitrogen leaching allocation, will I have any scope to leach more if the farm system were to change?

The property may be prevented from increasing their nitrogen leaching rate. The need for this will be assessed as part of the consent process, in light of the assessment of cumulative effects, taking into account the level of predictive error associated with using Overseer to set numerical limits and the likely year to year variance in some farm systems.

What happens if I need a resource consent but do not apply?

If you require a resource consent but do not apply, you will be non-compliant. The Regional Council are required by law to ensure compliance with the requirements of the plan.

Stock Exclusion

New national stock exclusion regulations came into effect on 3rd September 2020. See Ministry for the Environment website for guidance and check our web pages for updates as we are frequently adding more detailed regional guidance documents.

What are the environmental benefits of excluding stock from waterways?

Livestock can contribute nutrients (primarily nitrogen and phosphorus), sediment and faecal coliforms to our waterways. They do this though the direct deposition of dung and urine into rivers, and the treading damage and reduction in beneficial vegetation that results from grazing stream banks. These actions also stimulate a range of other effects in stream that reduce the quality of water, the ecological health of our streams and riparian margins. Effluent in our waterways can also be a human health risk and is culturally offensive to tangata whenua.

What do I need to know about Stock Exclusion under the Tukituki Catchment Plan?

The main things to know about the stock exclusion rules in the Tukituki Catchment are;

1. Stock exclusion rules applied after 31 May 2020.
2. You do not need to exclude sheep.
3. You will have to exclude all stock (other than sheep) from waterway on land with a slope less than 15 degrees. (New Stock exclusion Regulations came into effect on 3rd September 2020. These Regulations require stock to be excluded from 'low slope' land in staggered timeframes, starting in 2023. There is also a requirement for a minimum of 3m wide setback from the edge of the waterway. It is recommended that these National level

regulations are taken into consideration when undertaking any 'permanent' fencing to exclude stock in the Tukituki Catchment).[1]

4. On sloping land greater than 15 degrees you do not need to exclude stock if the stocking rate, excluding sheep, is less than 18su/ha when in the paddock containing the waterway.
5. The plan identifies priority sub-catchments as being Papanui, Porangahau, Maharakeke, Tukipo, Kahahakuri and Upper Tukituki. Within these sub-catchments, if you will have a stocking rate (excluding sheep) of more than 18su/ha, you must exclude stock from waterways regardless of slope.
6. If you are not in a priority sub-catchment and you have a stocking rate, excluding sheep, of more than 18su/ha on land greater than 15 degrees, and if it is not reasonably practical to exclude stock, you can identify other actions that you will take to reduce phosphorus losses from your farms. Detail these in your Farm Environmental Management Plan (FEMP).
7. You must exclude stock from all flowing permanent and intermittent rivers/creeks, lakes and wetlands. An intermittent river or creek is a waterway that periodically flows and has a defined river bed that is predominantly un-vegetated and comprised of silt, sand, gravel and similar.
8. You are allowed to graze fenced-off riparian areas for weed control purposes, however you can only do this between 1 November and 30 April for a total of 7 days.

For more information see the Stock Exclusion information on our website here: www.hbrc.govt.nz/environment/farmers-hub/farm-plans/stock-exclusion/

What else can I do?

The Plan encourages the use of riparian planting in conjunction with permanent stock exclusion as a means of reducing contaminant loss to waterways. HBRC is also looking at other measures that can be used to help improve ecosystem health or to reduce nitrogen levels in water ways. This could potentially include the construction of wetlands in some locations. Catchment groups have been established in some catchments to help identify and implement larger scale mitigation measures. You could contact your local catchment group, or if one doesn't exist yet, help to establish one.

[1] Resource Management (Stock Exclusion) Regulations 2020 – section 360. See mfe website for further guidance.

The Consent Application Process

How much will it cost to obtain a resource consent?

All consents require a deposit when they are submitted. Depending on why you need a land use consent, your deposit will vary (see table below):

Land Use production – Consent type	**Deposit (Including GST)**
Property under individual LUC, located in a DIN exceeding sub-catchment	$1150
All other land use consent types (stock exclusion and crossings, LUC leaching limit exceedance)	$2300

These costs a subject to change based on the HBRC annual plan. Please see the Resource Consent Charging guide for most up to date information and costs associated with other consent types.

Actual and reasonable costs are charged for the processing of the resource consent application. The total amount, less the deposit paid will be invoiced to the applicant at the end of processing. The total cost for each consent will be dependent on the time it has taken to process the individual consent and the level of input required from external consultants or experts.

We have tried to provide an ***estimate*** for the cost of processing the Land use production consents in the table below.

Estimated consent processing cost range

Land Use production – Consent type	**Estimated cost range (excluding GST)**
Property under individual LUC, located in a DIN exceeding sub-catchment	$850 – $1,500
Property exceeding individual LUC (Restricted discretionary activity).	$1,500 - $3,000
Property exceeding individual LUC by more than 30% (Non-complying activity) **and/or** technically complex/ large scale enterprise or multiple properties.	Exceeding $5000

These are the costs associated with HBRC processing an application for a single land use consent that does not require notification.

In the event that applications are required to be notified, there will be additional costs. The council must publicly notify a consent application if the adverse effects of the activity are deemed to be more than minor.

What is an Assessment of Environmental Effects? Does my land use application need one?

As part of a consent application an Assessment of Environmental Effects (AEE) will need to be completed. An AEE will need to identify the effects of your activity and the contribution of this activity to the cumulative effects on water quality in the sub-catchment. For applications within a DIN exceeding sub-catchment, HBRC are offering to have their science team undertake a cumulative effects assessment, rather than requiring each individual applicant to provide their own assessment. This will lower the overall cost and spread it across all the applications for that specific sub-catchment.

What other costs are associated with preparing a land use consent application?

You may have other costs if you engage a consultant and/or FEMP/ Nutrient budget provider. There are also costs associated with subscribing to Overseer^{FM}. If you are applying for another consent in conjunction with your land use consent (e.g. a farm dairy effluent discharge consent, or water take consent) the costs are likely to be higher than is estimated above.

Nutrient budgets must be prepared by a suitably qualified person. If you are applying for a 'non-complying' land use resource consent, you are strongly advised to engage a consultant to assist you with your application.

How long will it take to process my consent?

Under the RMA, the HBRC has 20 working days to process a resource consent application, however, this number of days may be extended by either HBRC or the applicant for a number of reasons. For example, if further information is required from the applicant in order to be able to process the application, or if the application is to be notified it will take longer. If the cumulative AEE for the applications for resource consent from DIN exceeding catchments are undertaken as a group, then the timeframes for processing these applications will be extended.

What other types of resource consent might I need?

As well as the land use consents, there are a number of rules which may trigger the need for a resource consent. These include:

Water takes
Damming and / or storing of water
Discharges to land (e.g. dairy effluent)
Structures in/ over or next to a waterway (e.g. culverts and bridges)
Operating feedlots or feed pads
NES – F (2020) Regulations

Post consent – Monitoring and Reporting

Will there be ongoing costs with having a consent?

In accordance with the annual plan, resource consents are monitored on an actual and reasonable cost recovery basis. The 2020/21 annual plan lists a charge rate of $147 per hour. As with Consents costs, these costs a subject to change based on the HBRC annual plan. Please see the Resource Consent Charging guide for most up to date information and costs associated with other consent types.

What monitoring or reporting is required by the consent holder?

The reporting requirements of your consent will be clearly detailed in your consent conditions. This will likely require provision of information at specified times, for example, an update on progress towards implementing the FEMP identified actions, or nutrient budget updates.

What monitoring is proposed by the Council?

Monitoring of activities is proposed to be scaled according to the size of the operation, the scale of nutrient losses, any particular sensitivity of the receiving environment and any previous compliance history. In this way farms that are small in size and low in nutrient losses, with no previous non-compliance, will have the minimum of monitoring costs. Conversely largescale, intensive operations with a poor compliance history can reasonably expect more time will be spent on their activity and the cost recovery of that time will likely be significantly larger.

FEMPs are required to be audited through the HBRC audit program. If a land use resource consent is in place for the property, the audit will form part of the compliance monitoring for that consent.

General

If I am exceeding the LUC leaching rate for my property, will I have to reduce my N loss, by how much and how fast?

If you are exceeding the LUC leaching rate limit for your property you will need to identify ways to reduce your N loss. (This should be discussed with your FEMP provider and actions should be incorporated into your FEMP with associated timeframes). As part of the consent process, HBRC will assess the required scale and time frames for reductions in N leaching from the farm taking into account:

- The state of water quality in your sub-catchment
- The extent to which you exceed the LUC leaching rate for your farm.
- The FEMP, and its associated nutrient budgets, and identified industry good practices and actions.
- The need to phase out over-allocation e.g. where water quality limits are not being met.

E.g. If you are a relatively high leacher within a sub-catchment with poor water quality you can expect to be required to make significant reductions to your N leaching losses.

What is the plan trying to achieve and by when?

The Plan is trying to ensure that water quality is maintained or enhanced so that set objectives can be met. The objectives include reducing the amount and extent of periphyton growth, providing for and improving aquatic habitat and mauri of water ways, and ensuring where water quality has been degraded and doesn't achieve these objectives, the plan seeks that we don't let water quality get worse, and that it is improved progressively over time so that they are met by 2030. The DIN target of 0.8 mg/L has been set to provide for maintenance or enhancement of aquatic ecosystems and this target is also to be met by 2030.

Why Overseer^{FM}?

Your consent application must be accompanied by an up to date nutrient budget, which represents your current farming system, completed using the latest version of Overseer (Overseer^{FM}), preferably within the last 12 months. This is to ensure the nutrient budget data used as part of the cumulative effects assessment is consistent.

Council requires nutrient budget data 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). This will become part of your consent application. 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 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. 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

If you do not provide an up to date nutrient budget, it is likely that your application will either be returned as requiring further information and will therefore take longer to process, or placed on hold until the required nutrient budget has been provided to council.

Buying/selling or leasing land in the Tukituki catchment?

FEMPs

The FEMP must reflect the current farming system on the property. When a farm (in whole or in part), changes ownership or is leased, the existing FEMP needs to be provided to the new owners or leasee and must continue to be followed.

If there are to be changes to activities on the property the FEMP must be updated to reflect the change in farming system. If there is no proposed change to the farming system then the FEMP can be updated as part of the three year review cycle, but the new owner should be aware of any actions and specified by the FEMP and must implement these in the specified timeframes.

Land Use Consents

If the farm has a Land Use resource consent, then any material changes to the FEMP must also be reflected by the resource consent. This may require a change of conditions to the consent.

If changes in the farming system are likely to change the leaching of nitrogen (N) from the property this will need to be modelled using Overseer^{FM} and if this changes from being below the N leaching limit for the farm to exceeding the N leaching limit for the farm, a resource consent will be required. **It is therefore recommended that prior to any farm system changes, the proposals are discussed with the regional council.**

Although Resource Consents are issued in the name of an individual, partnership, trust or company, land use resource consents are tied to the land and cannot be transferred to a different location.

When a property sells any associated land use consent for production land use, must be transferred to the new owner of the land. The new owners can either adopt the existing FEMP or produce a new FEMP to reflect the proposed farming system for the property. **This may require a change to the resource consent conditions and should be discussed with the regional council prior to any changes being implemented.**

The aim of PC 6 is to improve the water quality of the Tukituki River and its tributaries. If changes to farm systems and FEMPs do not show improvements then changes to resource consents may not be approved.

Who can I talk to for more guidance?

Consent Planners;

Paul Barrett – 06 835 9200 (barrett@hbrc.govt.nz)

Greg Shirras – 06 835 9200 (greg.shirras@hbrc.govt.nz)

FEMP project – 06 835 9200

Senior Regulatory Advisor;

Kate Proctor – 027 201 9698 (kate.proctor@hbrc.govt.nz)

Glossary

FEMP	A FEMP is a Farm Environment Management Plan. It summarises the potential risks in a farming operation, and describes how these risks will be managed and reduced over time. All properties in the Tukituki catchment area are required to have a Farm Environmental Management Plan (FEMP).
DIN	Dissolved inorganic nitrogen is immediately available for plant uptake which in turn can cause nuisance algal growth in the streams and rivers. The limit for DIN was set to 5 years of data to ensure that any climatic variability has been curtailed by the data length/duration. This approach targets only the catchments that are under pressure from excessive nitrogen leaching. In the Tukituki the over allocated sub-catchments are upward of 5 times over the limit.
Nutrient Budgets	Nutrient budgets allow nitrogen leaching rates and phosphorus losses to be worked out for a particular farm property or farming enterprise. It is generated using a nutrient budgeting model, such as OverseerFM, and forms part of the requirements of a Farm Environmental Management Plan (FEMP).
Overseer^{FM}	An agricultural management tool that assists in understanding nutrient use and movements on a farm which can help landowners optimise production and environmental outcomes. Overseer is owned and administered by the Ministry for Primary Industries (MPI), the Fertiliser Association of New Zealand and Ag Research.
LUC	Land Use Capability Classification is a system in use in New Zealand since the 1950s to try and achieve sustainable land development and management on farms. The system classifies all of New Zealand's rural land into one of eight classes, based on its physical characteristics and attributes. Class 1 land is the most versatile and can be used for a wide range of land uses. Class 8 land has a lot of physical limitations, it may be extremely steep, and not generally suitable for arable, pastoral or commercial forestry use.
AEE	An Assessment of Environmental Effects is a written statement which identifies the effects of your proposed activity or activities on the environment so that the likely impact of the proposal can be assessed. The AEE should also describe the ways in which any negative effects are to be remedied, avoided or mitigated.

Appendix: The five freshwater objectives of the Tukituki Catchment Plan;

OBJ TT1	To sustainably manage the use and development of land, the discharge of contaminants including nutrients, and the taking, using, damming or diverting of fresh water in the Tukituki River catchment so that: (a) Groundwater levels, river flows, lake and wetland levels and water quality maintain or enhance the habitat and health of aquatic ecosystems, macroinvertebrates, native fish and trout; (b) Water quality enables safe contact recreation and food gathering; (ba) Water quality and quantity enables safe and reliable human drinking water supplies (c) The frequency and duration of excessive periphyton growths that adversely affect recreational and cultural uses and amenity are reduced; (d) The significant values of wetlands are protected; (e) The mauri of surface water bodies and groundwater is recognised and adverse effect on aspects of water quality and quantity that contribute to healthy mauri are avoided, remedied, or mitigated; (f) The taking and use of water for primary production and the processing of beverages, food and fibre is provided for.
OBJ TT2	Where the quality of fresh water has been degraded by human activities to such an extent that Objective TT1 is not being achieved, water quality shall not be allowed to degrade further and it shall be improved progressively over time so that OBJ TT1 is achieved by 2030.
OBJ TT4	To manage the abstraction of surface water and groundwater within a minimum flow regime and allocation limits that achieve OBJ TT1 while recognising that existing takes support significant investment.
OBJ TT4A	To recognise that industry good practice for land and water management can assist with achieving Objectives TT1, TT2 and TT4
OBJ TT5	Subject to Objectives TT1, TT2 and TT4, to enable the development of on-farm storage and Community Irrigation Schemes that improve and maximise the efficient allocation and efficient use of water.