



If calling, please ask for Democratic Services

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## Environment Committee

Thursday 9 May 2024, 10.30am

Committee Room, Greater Wellington Regional Council, 34 Chapel St, Masterton

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*Quorum: Seven Members*

### Members

#### Councillors

Penny Gaylor (Chair)

David Bassett

Chris Kirk-Burnnand

David Lee

Daran Ponter

Yadana Saw

Simon Woolf

Quentin Duthie (Deputy Chair)

Ros Connelly

Ken Laban

Thomas Nash

Hikitia Ropata

Adrienne Staples

#### Appointee

Barbie Barton

Recommendations in reports are not to be construed as Council policy until adopted by Council.

## **Environment Committee** (A Committee of the Whole)

### **1 Purpose**

Oversee the development, implementation and review of Council's:

- a Environmental strategies, policies, plans, programmes, initiatives and indicators to improve environmental outcomes for the Wellington Region's land, water, air, biodiversity, natural resources, parks and reserves, and coastal marine area
- b Regional resilience priorities in the delivery of plans, programmes, initiatives and activities for flood protection, erosion control, and regional parks and forests
- c Regulatory systems, processes and tools to meet Council's related legislative responsibilities
- d Plans, programmes, and efforts to increase volunteer uptake, community involvement and mahi tahi with others seeking to improve environmental outcomes in the Wellington Region.

### **2 Specific responsibilities**

The Committee's environmental responsibilities include the areas of land use management, air quality, water health and quality, regional natural resources, river control, flood protection, regional parks and reserves, coastal marine environment, maritime navigation and safety, biosecurity and biodiversity.

- 2.1 Apply Council's Te Tiriti o Waitangi principles when conducting the Committee's business and making decisions.
- 2.2 Oversee the development and review of Council's:
  - a Environmental strategies, policies, plans, programmes, initiatives and indicators
  - b Regional resilience prioritiesand recommend these matters (and variations) to Council for adoption.
- 2.3 Review periodically the effectiveness of implementing and delivering Council's:
  - a Environmental strategies, policies, plans, programmes, initiatives and indicators
  - b Regional resilience priorities.
- 2.4 Consider regional, national and international developments; emerging issues and impacts; and changes in the legislative frameworks for their implications for Council's:
  - a Environmental strategies, policies, plans, programmes, initiatives and indicators
  - b Regulatory systems, processes and tools.

- 2.5 Recommend to Council changes to improve the effectiveness of Council's:
  - a Environmental strategies, policies, plans, programmes, initiatives and indicators
  - b Regional resilience priorities
  - c Regulatory systems, processes and tools.
- 2.6 Review Greater Wellington's compliance with Council's related legislative responsibilities<sup>1</sup>, and the monitoring and enforcement of compliance.
- 2.7 Ensure that the Committee's decision making:
  - a Considers climate change-related risks (mitigation and adaptation)
  - b Is consistent with Council's plans and initiatives to give effect to Council's declaration of a climate emergency on 21 August 2019, including agreed emissions reduction targets.
- 2.8 Review, after each Farming Reference Group meeting, a written report of the business conducted at that meeting.

### **3 Delegations**

- 3.1 Subject to sections 3.3 to 3.7, Council delegates to the Committee all the powers, functions and duties necessary to perform the Committee's responsibilities (except those that must not be delegated, have been retained by Council, have been delegated to another committee, or have been delegated to the Chief Executive).
- 3.2 The Committee has the authority to approve submissions to external organisations for matters pertaining directly to the Committee's purpose.
- 3.3 The Committee may make decisions on matters with a financial impact only where the related costs are:
  - a Budgeted for in the relevant business group's budget
  - b Not budgeted for in the relevant business group's budget, but can be met from savings within that budget.
- 3.4 Where the Committee considers a decision with a material financial impact is needed<sup>2</sup>, the Committee must refer the matter to Council for its decision.
- 3.5 The Committee may not make a decision that is materially inconsistent with Council's Annual Plan or Long Term Plan.
- 3.6 Where a matter proposed for consideration by the Committee (including during the development of proposed Greater Wellington plans and policies) is of strategic

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<sup>1</sup> These responsibilities include those under the Resource Management Act 1991 and for the granting of resource consents, the Soil Conservation and Rivers Control Act 1967, the Biosecurity Act 1993, the Reserves Act 1977, and the Maritime Transport Act 1994.

<sup>2</sup> That is, where savings are identified from other business groups' budgets to meet the related costs; or no savings are identified across Greater Wellington's overall budget to meet the related costs.

importance to the Wairarapa Constituency, that matter shall first be referred to the Wairarapa Committee or its members for their consideration.

- 3.7 The Committee shall ensure that it acts under the guidance of the Memorandum of Partnership in working with Greater Wellington's mana whenua partners of the Wellington Region to ensure effective Māori participation in the Committee's deliberations and decision-making processes.

#### **4 Members**

- 4.1 All thirteen Councillors.
- 4.2 The Chair of the Farming Reference Group.

#### **5 Voting entitlement**

The Chair of the Farming Reference Group sits at the table and has full speaking rights, but has no voting rights at any Committee meeting.

#### **6 Quorum**

Seven Committee members.

#### **7 Meeting frequency**

The Committee shall meet six times each year, with additional meetings as required.

# Environment Committee

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Thursday 9 May 2024, 10:30am

Committee Room, Greater Wellington Regional Council, 34 Chapel St, Masterton

## Public Business

No.	Item	Report	Page
1.	Apologies		
2.	Conflict of interest declarations		
3.	Public participation		
4.	<a href="#">Confirmation of the Public minutes of the Environment Committee meeting on Tuesday 27 February 2024</a>	24.96	6
5.	<a href="#">Wetlands – Greater Wellington’s Current Approach and Future Next Steps</a>	24.172	9
6.	<a href="#">Compliance, Monitoring and Enforcement Policy</a>	24.193	29
7.	<a href="#">Farming Reference Group Chair Update Report</a>	24.201	54
8.	<a href="#">Te Rōpū Taiao   Environment Group Update</a>	24.210	58



Please note these minutes remain unconfirmed until the Environment Committee meeting on 9 May 2024.

Report 24.96

## Public minutes of the Environment Committee meeting on Tuesday 27 February 2024

Taumata Kōrero – Council Chamber, Greater Wellington Regional Council | Te Pane Matua Taiao  
100 Cuba Street, Te Aro, Wellington at 9.30am

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### Members Present

Councillor Gaylor (Chair)  
Councillor Duthie (Deputy Chair)  
Councillor Bassett  
Councillor Connelly  
Councillor Kirk-Burnnand  
Councillor Nash  
Councillor Ponter (until 12.13pm)  
Councillor Ropata (from 10.07am)  
Councillor Saw (from 9.32am)  
Councillor Staples (until 12.30pm)  
Councillor Woolf

Barbie Barton

Councillor Ropata participated at the meeting remotely via MS Teams and counted for the purpose of quorum in accordance with clause 25B of Schedule 7 to the Local Government Act 2002.

The Committee Chair welcomed everyone to the meeting.

### Public Business

#### 1 Apologies

Moved: Cr Staples / Cr Connelly

That the Committee accepts the apologies for absence from Councillor Lee and Councillor Laban, and the apology for lateness from Councillor Ropata.

The motion was **carried**.

Councillor Saw arrived at 9.32am during the above item.

**2 Declarations of conflicts of interest**

There were no declarations of conflicts of interest.

**3 Public participation**

Zoe Studd and Liz Gibson, Mountains to Sea Wellington Trust, spoke to the restoration and education projects undertaken by the organisation, and spoke to a presentation.

**4 Confirmation of the Public minutes of the Environment Committee meeting on 23 November 2023 – Report 23.587**

Moved: Cr Kirk-Burnnand / Cr Bassett

That the Committee confirms the Public minutes of the Environment Committee meeting on 23 November 2023 - Report 23.587.

The motion was **carried**.

**5 Response to Recent Government Environmental Announcements – Report 24.69 [For Information]**

Matt Hickman, Principal Advisor Strategy, Policy & Regulation, Shaun Andrewartha, Manager Environmental Regulation, Natasha Tomic, Team Leader Policy, and David Boone, Manager Ecosystems and Community, spoke to the report.

**Noted:** The Committee requested that the implications of the signalled legislation changes for fast-track consenting be added to the risk register.

Councillor Ropata arrived at 10.07am during the above item.

**6 Whaitua Development Update – Kāpiti and Wairarapa Coast – Report 24.55 [For Information]**

Nicola Patrick, Director Catchment, spoke to the report.

**7 EnviroSchools Update – Report 24.53 [For Information]**

David Boone, Manager Ecosystems and Community, Jude Chittock, Team Leader Community Capability and Change, and Chris Montgomerie, Team Leader EnviroSchools, spoke to the report.

**Noted:** The Committee requested further information about how much funding Greater Wellington is providing to the EnviroSchools programme, for consideration as part of the Long Term Plan.

The meeting adjourned at 10.52am and resumed at 11.13am.

**8 Fish Passage Project Update – Report 24.29 [For Information]**

Ashley Webby, Senior Biodiversity Advisor Fish Passage, and Luke Barnsley, Environmental Operations Manager – Te Rūnanga o Toa Rangatira, spoke to the report.

**9 Flood Forecasting and Flood Monitoring Network Improvements Programme – Report 24.80** [For Information]

Andy Brown, Team Leader Knowledge – Water, and Braden Crocker, Team Leader Monitoring Water Resilience, spoke to the report.

**Noted:** The Committee requested:

- that staff develop advice on monitoring the risk that Greater Wellington staff may be subject to legal liability where the public relies on Greater Wellington’s weather and flood warnings.
- That if a risk is identified, this is referred to the Finance, Risk and Assurance Committee for further consideration.

Councillor Ponter departed the meeting at 12.13pm during the above item and did not return.

**10 Farming Reference Group Chair Update Report – Report 24.68** [For Information]

Barbie Barton, spoke to the report.

**11 Te Rōpū Taiao – Key Updates for Quarter Two – Report 24.85** [For Information]

Sallyann Smutek, Chief Advisor, Fathima Iftikar, Director Strategy, Policy and Regulation, David Hipkins, Director Knowledge and Insights, Nicola Patrick, Director Catchment, Jack Mace, Director Delivery, and Lian Butcher, Group Manager Environment spoke to the report.

Councillor Staples departed the meeting at 12.30pm during the above item and did not return.

**12 Te Rōpū Taiao | Environment Group Update – Report 24.30** [For Information]

David Boone, Manager Ecosystems and Community, and Jeremy Paterson, Team Leader Western Parks, spoke to the report.

## **Karakia whakamutunga**

The Committee chair closed the meeting with a karakia whakamutunga.

The public meeting closed at 12.44pm.

Councillor P Gaylor

**Chair**

Date:



Environment Committee  
9 May 2024  
Report 2024.172



For Information

## WETLANDS – GREATER WELLINGTON’S CURRENT APPROACH AND FUTURE NEXT STEPS

### Te take mō te pūrongo Purpose

1. To update the Environment Committee (the Committee) on Greater Wellington’s approach to wetland protection and management, notably following recent legal cases.

### Te tāhū kōrero Background

2. Wetlands are a complex and contentious topic across the Wellington Region. As noted in the Chair’s Forward to the Natural Resources Plan (NRP) 2023:

“... this Plan will provide much stronger protection for our Region’s endangered wetlands. All manner of human activities that harm wetlands, such as diverting or draining water or reclaiming wetlands will be much more difficult to gain consent for in the future. We do not do this lightly, but with only 3% of our Region’s wetlands remaining, it is the right thing to do.”

3. Decisions from the hearing panel on the proposed Natural Resources Plan (PNRP) deemed all wetlands in the Wellington region as ‘significant’.
4. Greater Wellington has strong wetland direction in the regional planning framework which applies to all natural inland wetlands in the Region. Activities in or around wetlands are regulated tightly with a number of rules flowing from the Natural Resources Plan (NRP) as well as direct rules from national direction (described below).
5. The previous Government shifted the national direction around freshwater management. This resulted in weakened protections for wetlands. This means that the Greater Wellington framework is more stringent in places than that currently required by government.

### ***Greater Wellington’s current regulatory framework for managing wetlands***

6. Greater Wellington has been at the forefront of wetland regulations for over a decade. Currently, wetlands are managed in the Wellington Region through direction in both the Regional Policy Statement (RPS, 2013) and the Natural Resources Plan (NRP, 2023).

*The Regional Policy Statement 2013 and Change 1*

7. The RPS identified the importance of protecting wetlands and their vital contribution to the overall health and resilience of our region, including values such as recharging groundwater, reducing flooding extremes, water filtration and providing habitat for a wide variety of species.
8. Proposed Change 1 to the RPS (notified in August 2022 and currently coming to the end of the hearings process) is intended to further expand recognition of wetland benefits and strengthen direction to protect them. More holistic provisions in Change 1 recognise the connections between wetlands and the wider ecological health and resilience of the Wellington Region. Regional and District Plans are directed to include provisions that give effect to Te Mana o te Wai, including by requiring that urban development incorporates water-sensitive urban design principles and riparian buffers, and protects and restores the values and extent of wetlands.
9. The requirement to incorporate water-sensitive urban design principles is intended to allow for urban development while aligning with the first principle of the effects management hierarchy: to avoid adverse effects.
10. Consideration policies applying to resource consents for urban development also include direction to give particular regard to Te Mana o te Wai, as well as explicit wording around managing wetlands for the purpose of aquatic ecosystem health and recognising the wider benefits of doing so (such as indigenous biodiversity, water quality, and holding water in the landscape). The Government has signalled that this consideration will be removed in an upcoming amendment to the Resource Management Act 1991 (RMA). The specific wording is currently unknown.
11. Although the outcome of the RPS Change 1 hearings will not be known until later this year, this holistic approach to wetland protection and recognition is necessary to meet future challenges to the Wellington Region, and to slow, halt, and reverse the loss of these valuable ecosystems. As we have been in the past, in drafting future plans and policies Greater Wellington remains committed to the basic policy direction of the RMA with regard to wetlands: to protect and preserve.

*The Natural Resources Plan and Plan Change 1*

12. Notified in July 2015, the PNRP defined “natural wetlands” by expanding on the RMA definition of wetlands (*wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions*). The PNRP provided some specific exclusions to the definition of wetlands, laid out policy frameworks to inform wetland protection, and scheduled significant wetlands in the Wellington Region.
13. Relevant national direction at that time came from the National Policy Statement for Freshwater Management (NPS-FM) 2014, which did not provide a definition of wetlands beyond that in the RMA. The PNRP definition of wetland included exclusions, one of which stipulated that “damp gully heads, or wetted pasture, or pasture with patches of rushes” would not be considered wetlands for the purposes of the plan. This exclusion was later relevant in the Mangaroa and Anlaby Rd cases, and this clause in the definition was amended for the operative NRP.

14. The operative NRP (2023) defines “natural wetlands” drawing from both the RMA definition and the 2020 NPS-FM definition, including the updated pasture exclusion as follows:

*Is a permanently or intermittently wet area, shallow water and land water margin that supports a natural ecosystem of plants and animals that are adapted to wet conditions. **Natural wetlands** do not include: (a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing former natural wetland); or (b) a geothermal wetland; or (c) any area of improved pasture that, at 3 September 2020, is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain derived water pooling.*

*“Natural inland wetlands” are defined as “natural wetland that is not in the coastal marine area.”*

15. The NRP further notes that all natural wetlands in the Wellington Region are considered both representative and rare, and are therefore classed as ecosystems and habitats with significant indigenous biodiversity values according to the criteria in Policy 23 of the RPS. Otherwise, the approach in the NRP gives effect to Policy 6 in the NPS-FM (“*There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.*”) through provisions to identify, protect and restore the extent, values and condition of natural wetlands (Objective O28, Policy P30, P31, P34, P35, and P38).
16. NRP Schedule A3 lists 15 outstanding natural wetlands in the Region; these are wetlands which have outstanding indigenous ecosystem values and meet the criteria of being both highly representative and either high rarity values or are highly diverse. Schedule F lists ecosystems and habitats with significant indigenous biodiversity values in the Wellington Region. Schedule F3 lists 203 natural wetlands identified in the region. Schedule C lists sites with significant mana whenua values, which includes many wetlands as they are significant for a range of values including mahinga kai.
17. Greater Wellington’s wetland mapping project (as required by the NPS-FM 2020) is underway to identify wet areas across the region and some of these may be recommended to be scheduled.
18. The Court of Appeal’s findings as to the legal elements of establishing a wetland, as well as its comments around the type of evidence required in the criminal context, may become relevant to how wetlands are identified for inclusion in the NRP and the scope of evidence and submissions needed during the hearing process.

#### ***Recent legal cases on wetlands in the Wellington Region***

19. The investigation and prosecution of offending within wetlands is a difficult, highly technical, and evolving area of the law.
20. Greater Wellington is at the forefront of wetland protection and litigation nationally – having progressed the wetland protection framework in the PNRP before national direction required it. A natural consequence of being on the frontline is that scrutiny via the Court is inevitable.
21. Greater Wellington has been challenged in Court recently regarding:

- a An enforcement order application (Mangaroa)
- b A prosecution relating to alleged wetland offending in Kāpiti (GWRC v Page & Crosbie (Anlaby Rd)).

### *Mangaroa*

- 22. On 4 March 2022 the Environment Court issued a decision in relation to Greater Wellington’s application for Enforcement Orders against various parties at Katherine Mansfield Drive, Whiteman’s Valley, Upper Hutt. The case is colloquially known as Mangaroa.
- 23. An enforcement order is an order made by the Environment Court that requires certain actions to be taken or activities to cease within a specified time, where the Environment Court believes the activity breaches or is likely to breach the RMA. An application for an enforcement order can be made by any person to the Environment Court. The Environment Court may direct the offender to pay costs to ‘avoid, remedy or mitigate’ the damage to the environment. Breach of an enforcement order is a prosecutable offence.
- 24. The reasoning behind Greater Wellington’s application for an enforcement order at Mangaroa was that a residential subdivision had been granted a consent to build by Upper Hutt City Council despite 15ha of the area being identified as a natural wetland by Greater Wellington regulatory officers working with Greater Wellington wetland experts<sup>11</sup>. To prevent further damage to the ecosystem, Greater Wellington sought to protect the contended natural wetland and impose restrictions on the lots of the subdivision that had been sold.
- 25. In its decision, the Environment Court was critical of Greater Wellington and Judge Dwyer summarised its findings in these terms:
  - a The Regional Council had failed to establish by a "massive margin" that the area which it contended to be a natural wetland was in fact a natural wetland
  - b The Court found that the evidence which it heard "... pointed to a contrary conclusion"
  - c Even if the area identified by the Regional Council had in fact been natural wetland, that area constituted either pasture or improved pasture in terms of the PNRP and the National Policy Statement for Freshwater Management (NPS-FM) and so was not subject to controls which otherwise applied to natural wetlands.
- 26. The Court later issued an interim decision as to costs and went further stating:

*"...the proceedings initiated by the Regional Council for enforcement orders were groundless at the most basic and fundamental level and its case was totally devoid of merit in the absence of substantive evidence supporting the case which it sought to make."* DCJ Dwyer.
- 27. The developer in this case and his company, pleaded guilty to and were convicted of two breaches of the RMA relating to earthworks exceeded the permitted activity coverage standard, and the discharge of an unknown volume of sediment onto land

<sup>11</sup> This area of wetland was not identified as natural wetland in the schedules of the NRP.

from the building platforms which may have entered nearby streams, and did enter at least some of the streams in the vicinity of the building sites.

*Anlaby Road*

28. In this case, Greater Wellington prosecuted a landowner and her partner (who carried out the works on the property) for 35 offences each in relation to a property at Anlaby Road, Kāpiti. Twenty-nine of the charges alleged wetland offending. The District Court found the defendants guilty following a judge-alone trial and their convictions were upheld on appeal by the High Court. The defendants, who had chosen to remain unrepresented until that point, obtained legal representation and were granted leave to proceed with a second appeal against their convictions at the Court of Appeal on the basis of fresh expert evidence.
29. The second appeal focused on four main points:
  - a Whether there was evidence of animals in the alleged wetlands as part of the definition of “wetland” in the RMA and PNRP, which was “*a natural ecosystem of plants and animals that are adapted to wet conditions.*”
  - b Whether the “Clarkson Method” for delineating wetlands in New Zealand (itself an adaptation from the US Army Corps method) and its application in this case - had proved the existence of the alleged wetlands beyond reasonable doubt (the criminal burden of proof).
  - c Whether any of the exclusions to the definition of “natural wetland” in the 2019 Decisions Version of the PNRP applied.
  - d Whether any of the alleged wetlands were “significant natural wetlands” for the purposes of the 2019 Decisions Version of the PNRP, given that GW had not specifically assessed the alleged wetlands as having outstanding indigenous biodiversity values.
30. In summary:
  - a The appeals were allowed and the 29 convictions relating to alleged wetlands were set aside, with the appellants being acquitted of those charges.
  - b Six convictions relating to offending against abatement notices and an enforcement order remained (and were not substantively challenged at the appeal).
  - c The Court of Appeal directed further submissions on sentencing/penalty and the matter is still before the Court.
31. The Court of Appeal found in relation to the method of wetland identification:
  - a Evidence of animals was required. It found Greater Wellington had not established beyond reasonable doubt the existence of animals adapted to wet conditions.
  - b In this case, there were some issues with how the “Clarkson Method” had been applied with regard to the selection of plots. In particular, some of the areas were “atypical” which meant additional steps should have been taken.

- c In any case, there were significant questions about whether the “Clarkson Method’s vegetative tool” alone could ever satisfy the standard of criminal proof. A prudent prosecution would also reference hydrology and soils rather than rely on vegetation.
- d The “damp gully head” exclusion was “particularly problematic” because of the difficulty in defining the demarcation between “damp” and “wet” and the fact that damp areas may be periodically wet or completely inundated.
- e The Court did not comment on whether all natural wetlands were “significant” natural wetlands pursuant to the definition in the PNRP.

## **Te tātaritanga Analysis**

### ***Implications for consenting, compliance and enforcement by Greater Wellington***

- 32. For resource consents, the burden of proof to determine or rule out that a wetland is on site is on the consent applicant. Such information will need to be supplied with an Assessment of Environmental Effects (AEE) accompanying a consent application. Consenting officers provide advice to consent applicants when information suggests that an area may be a wetland. If the applicant disagrees with our advice, it is their responsibility to prove that the area is not a wetland. In this instance officers will provide guidance as to the level of analysis required, as determined by the recent court decision.
- 33. For compliance monitoring of consented activities, if a wetland was identified through the consenting process, compliance with consent conditions is still required. However, if a consent holder wishes to challenge the identification of a wetland on site that was determined as such during the consenting process, they may do so through a change of consent conditions application, in which case the same level of assessment will be required by the consent holder as with a new consent application.
- 34. From a compliance and enforcement perspective, the process for gathering evidence remains largely unchanged. If where there is suspected wetland offending, Greater Wellington officers will gather evidence (such as photos, videos, water samples etc.), and environmental science expertise will be sought as to the plant species present and whether this indicates a wetland. In light of the Court of Appeal decision, it is likely additional surveys will be needed to collect evidence pertaining to the soils, hydrology, and fauna. A complicating factor could be difficult for the experts to undertake their assessments and show the presence of wetland hydrology or fauna in an area that has already been damaged or significantly altered.

### ***Greater Wellington’s approach to delineation and landowner advice has evolved***

- 35. Our Delivery function in Rōpū Taiao Environment Group plays a facilitation and supporting role through the Key Native Ecosystems (KNE) programme (which is a long-term programme), the Wetland Programme (which is a shorter-term programme) and the riparian programme, which supports both the KNE and Wetland programmes.
- 36. Through these programmes our delivery team provides advice and resources to private landowners. These wetlands are either already delineated by the Knowledge and

Insights (K&I) team or if not, are passed on to K&I to be delineated. Upon setting up an agreement with the landowner, the primary functions are to install fencing through 50/50 funding, provide native plants and pest plant control.

37. As well as supporting Delivery and their programs, the K&I function also supports Regulation’s Enforcement Officers with the delineation of wetlands and assessing the effects of unauthorised works on wetlands. This work informs Greater Wellington’s regulatory function and its compliance and enforcement decision-making and, in the most serious cases, provides an evidence base for prosecutions.
38. Since 2019 our team of wetland experts has updated their practices to align with the changing regulations, to adopt newly developed tools (like the Soils, Hydrology and Pasture Tool) and in response to changes in best practice across the sector.

***Understanding implications for national and regional regulation and guidance***

39. The Court of Appeal’s findings in the Page & Crosbie case has raised questions about the suitability of the existing national guidance, especially for criminal prosecution matters. The Wetland delineation protocols provide a robust method for delineating wetlands based on the United States delineation system.<sup>2</sup>
40. The NPS-FM (released in August 2020) requires regional councils to have regard to this protocol in cases of uncertainty or dispute about the existence or extent of a natural wetland. This protocol uses three criteria for identifying and delineating wetlands: vegetation, soils, and hydrology, which have been adapted to New Zealand conditions.
41. The Vegetation Tool has subsequently been widely adopted by the regional sector and is the most widely applied and accepted tool for delineating wetlands both by councils and the private sector.
42. The protocols do not cover the identification of animals that are adapted to wet conditions, meaning that following the Court of the Appeal’s decision in Page and Crosbie, additional steps to identify evidence in relation to animals may be needed to establish a wetland.
43. While current case law refers back to the definition in the RMA, the whole Act is due for replacement by the end of this Government’s term. As part of this review and replacement process, the definition of a wetland should be revisited to ensure that it is fit for purpose, in order to provide certainty to landowners and regulators alike. This could also be traversed as part of future plan changes.

***Greater Wellington has shifted to best practices for delineation across the wetland sector***

***Implications for wetland delineation***

44. Since 2019 our team of wetland experts have changed their practices to align with changing regulations, to adopt newly developed tools (like the Soils, Hydrology and Pasture Tool) and in response to changes in best practice across the sector.
45. The implications of the Mangaroa Enforcement Order and Anlaby Road Appeal decisions as they relate to wetland delineation can be summarised as follows:

<sup>2</sup> <https://environment.govt.nz/publications/wetland-delineation-protocols/>

- a The application of the Vegetation Tool (also known as the Clarkson Method) and the need to undertake a full and thorough assessment to a high standard
- b The application of the Soil and Hydrology Tools to ensure wetland delineations can be evidenced to the required standard
- c Thoroughly testing for all exclusions
- d Identify or provide other evidence for the presence of fauna adapted to wet conditions to support wetland delineations
- e Ensuring that all experts involved have the requisite expertise.

*Application of the Vegetation Tool*

- 46. The Council used the Vegetation Tool to inform the natural wetland delineation work for both the Mangaroa and Anlaby investigations.
- 47. For the Mangaroa investigation, Greater Wellington’s use of the Vegetation Tool was limited to three plots. The Council Greater Wellington later relied on the wetland reports commissioned by the developers and the existing data to inform Greater Wellington’s view on the extent of the natural wetland.
- 48. For the Anlaby case, Greater Wellington delineated the wetlands on the property based on data from two separate site visits, using the Vegetation Tool and applying the dominance test in the first instance. Where the result from the dominance test was inconclusive, the prevalence test was applied (although during the second appeal, the external expert used the available data to apply the prevalence test to all the plots regardless of whether the dominance test had been inconclusive).
- 49. Going forward, Greater Wellington proposes to continue using the Wetland Vegetation Tool (along with the other tools and methods identified below) to delineate natural wetlands because it is the best tool currently available in respect of wetland vegetation. The Councils’ wetland field staff have robust expertise in botany (this is a pre-requisite for doing our core monitoring work) and they spend a significant amount of time out in the region’s wetlands. They are well placed to continue to use the Vegetation Tool appropriately and to a high standard.
- 50. There is the opportunity to consider the Vegetation Tool’s suitability for use in criminal cases. Greater Wellington is currently liaising with Ministry for the Environment (MfE) and experts across the Regional Sector to commission a piece of work which could use case studies and statistical analysis test the Vegetation Tool further.

*Application of the Soil and Hydrology Tools*

- 51. The Hydric Soils Tool was first released in 2018 and the Hydrology Tool was developed in 2020. When paired with the Vegetation Tool (which was released in 2014), these three tools closely reflect the US Army Corps Wetland Delineation Method.
- 52. Neither the Soil nor the Hydrology Tools were used to delineate the alleged wetlands for the Mangaroa or the Anlaby case. The Soils Tool was only recently developed at the time of the site visits for these investigations. The Hydrology Tool was released in 2021.
- 53. Greater Wellington’s wetland Environmental Monitoring Officers have been since been trained in the use of the three delineation tools (vegetation, soils, and hydrology) by the



Manaaki Whenua Landcare Research experts who adapted them to New Zealand context.

54. Greater Wellington now also uses the Soil and Hydrology Tools in combination with the Vegetation Tool at every site visit made for compliance and enforcement purposes. This will help ensure that the Councils compliance and enforcement decision-making and any court proceedings are supported by the best evidence available.
55. For enforcement matters, wetland delineation must be undertaken in the presence of unauthorised disturbance to wetland vegetation, soils or hydrology. This makes using the three wetland delineation tools challenging. In these situations, our wetland experts are directed to the US Army Corps Method, which outlines alternative methods and information sources to identify whether a site was a wetland prior to the disturbance. A copy of ‘Section F: Atypical Situations’, has been added to our field kit to ensure it is consistently and rigorously adopted. This will further ensure that the evidence collected can meet the threshold for evidence for court proceedings.
56. We are currently developing a list of external experts in case further expertise is required to support future proceedings. We will use a sample of these experts to review some of our recent use of the Soil and Hydrology Tools to ensure our practices adequately support any enforcement proceedings.

*Testing for all exclusions*

57. The 'pasture exclusion' was a key matter for the Mangaroa proceedings, and the 'damp gully head' and 'constructed wetlands' exclusions were the exclusions relevant to the Anlaby case. For both cases the Courts found that Greater Wellington failed to prove the absence of these exclusion to the required standard.
58. The Mangaroa and Anlaby cases came at a time when the exclusions to natural wetland were different from those currently included in the NPS-FM definition of natural inland wetlands.
59. Today we have the 'Pasture Exclusion Methodology' which has been developed by the MfE and Landcare Research and sets out the method for applying the pasture exclusion. This resource was not available at the time of the Mangaroa or Anlaby proceedings. Our field personnel are now trained in the application of this method.
60. There is currently no guidance for the 'deliberately constructed wetland' exclusion. This will have to be considered on a case-by-case basis by the relevant experts with reliance on the conventional definition of 'deliberately constructed'. To ensure adequate information is captured, our staff are developing templates and field check lists to prompt examination as part of desktop preparation and whilst on site.
61. The exclusion relating to 'damp gully heads' has been removed from the natural inland wetland definition in the NRP and therefore no longer needs to be tested for.
62. We are requesting for MfE to produce some guidance on the 'constructed wetland' exclusion. We will continue to liaise with the sector to ensure we are all applying this exclusion consistently.

*Identification of fauna adapted to wet conditions*

63. There are currently no tools or guidelines about the identification of fauna (such as birds, fish and invertebrates) adapted to wetland conditions which have been developed for New Zealand. The authors of the Vegetation Tool and the US Army Corps method both highlight the difficulty of incorporating fauna as a reason for not including them as a wetland indicator. A proportion of animals may only nest, feed or spend a part of their lifecycle in a wetland but would still be considered adapted to wet conditions. Animals are transient creatures which make the likelihood of reliably finding them in wetland challenging. Larger animals (such as birds) tend to hide or flee from monitors which makes evidencing their presence challenging. Smaller animals, such as invertebrates, can be difficult to find and provide evidence for in all wetland types (for example, ephemeral wetlands can be particularly difficult to find fauna adapted to wet conditions).
64. Greater Wellington has a report which sets out the freshwater bio status of birds in the Wellington Region which may be useful to inform future investigations. We also have freshwater fish and macroinvertebrate experts who can provide guidance on any observations.
65. Our current practices require our wetland experts to document all observations of wetland fauna as a part of their site visits. For wetlands with standing water this could be straightforward as these water bodies likely contain macroinvertebrates which can be easily identified by a freshwater ecologist. Signs of wetland birds will also be recorded, such as sightings of waterfowl or their feathers, nests or faeces. However, it is worth stressing that this is an evolving space without national guidance available.
66. We have requested for MfE to commission guidance to assist with wetland fauna identification to support our wetland delineation. Others in the regional sector are also interested in supporting work in this area. We will continue to work with both MfE and other regional councils on the development of resources, tools and guidance in this space. We will continue to consult with other experts in the sector to ensure methods are aligned and reflect best practice.

*Ensuring all of our experts have the requisite expertise*

67. For the Mangaroa case the expertise of our experts was not called into question with regards to terrestrial ecology. The Courts however preferred the evidence of the Soils and Hydrology experts which represented the landowners, Upper Hutt City Council and the developer.
68. For the Anlaby Case, no criticism was made of our terrestrial ecologist at the District Court and the High Court. The Court of Appeal took a different view and instead considered that Greater Wellington's expert in the District Court did not have the "requisite qualifications" to undertake analysis of soils or hydrology, and went on to point out that they were not qualified as an ecologist, despite acknowledging their decades of experience.
69. Greater Wellington currently has one Wetland Scientist and two Senior Environment Monitoring Officers who undertake wetland delineation work with the support of their colleagues. The Wetland Scientist has a doctorate in terrestrial plant ecology. The two Senior Environmental Monitoring Officers are trained in the three wetland delineation

tools (vegetation, soils and hydrology) and the Pasture Exclusion Methodology and have decades of botanical experience.

70. Only personnel who are fully trained in all three wetland delineation tools will lead field work to delineate wetlands. The data and observations that they collect will then be shared with and interpreted by experts with appropriate expertise to inform wetland delineations. This will help to ensure that, should matters proceed to court, our field staff and their evidence are supported by experts with the requisite expertise.
71. In some cases, specialist experts may also need to visit the site to confirm or expand upon the information collected by the field ecologists and multiple site visits may be needed.

### **Ngā hua ahumoni**

#### **Financial implications**

72. There are no direct financial implications from this report.

### **Ngā Take e hāngai ana te iwi Māori**

#### **Implications for Māori**

73. Repo (wetlands), also known as reporepo, poharu, and roto are regarded by Māori as taonga. They have historical, cultural, economic, and spiritual significance. Wetlands can be reservoirs for knowledge, wellbeing, and utilisation. They are mahinga kai (food gathering) sites used by local marae, whānau, hapū, and iwi and provide significant habitats for a range of culturally important (taonga) plants, animals, fish, birds, reptiles, insects, and micro-organisms. They are breeding grounds for native fish and tuna and a large range of culturally significant plants for weaving – harakeke, raupō, toetoe and kuta; carving – tōtara, kahikatea; Māori materials and implements – mātuka. Many wetlands comprise a variety of culturally important medicinal plants for rongoā (Māori medicinal use).
74. Schedule C of the NRP sets out sites with significant mana whenua values, some of which are wetlands. There is a planning framework to protect these sites which should be unaffected by these legal decisions.
75. Mana whenua have articulated the importance of repo through our whaitua processes, given their special role in regulating water quality and quantity. For example, the Te Whanganui-a-Tara Whaitua Implementation Programme states:

*Natural wetlands are rich in biodiversity and have a unique role in filtering contaminants from water. They are a natural and essential part of water’s journey from the mountains to the sea and are important for slowing the impacts of flooding, cleansing water and as carbon sinks. From micro wetlands that are the source of our streams, to large areas such as the Mangaroa peatland and those wetlands around the Parangārehu Lakes (Lakes Kōhangapiripiri and Kōhangaterā), they are a highly valued environment that must be protected.*

*The retention and restoration of our remaining repo (wetlands) is of great importance to Mana Whenua who recognise repo for their role as habitat for*

*rongoā (plants able to be used as remedies), mahi raranga (plants and soils used for weaving and construction) and supporting mahinga kai values (places, taonga species and activities relating to cultural harvest).*

*The further loss or degradation of wetlands is incompatible with our role as kaitiaki, because without wetlands and the species they support the mauri of our waters is diminished. Our recommendations give protection to these rare habitats and acknowledge our debt to them for the physical and spiritual sustenance they provide. Restoration benefits the journey of water from mountains to sea and enhances Te Mana o te Wai.*

76. There has been no public comment from our mana whenua partners following the legal cases. We will continue to seek to co-design future plan changes, especially those that flow from completed whitua processes.

### **Te huritao ki te huringa o te āhuarangi Consideration of climate change**

77. One of the key drivers for the Councils seeking to protect wetland across the region is because wetlands can help to mitigate against the risk of climate change, or mitigate the adverse effects which result from climate change. Some examples for this are:
- a Wetlands can sequester carbon, supporting climate mitigation and adaptation
  - b Wetlands currently store more carbon than any other ecosystem on Earth
  - c Wetlands store water, safeguarding communities from flooding and providing baseflow during drought
  - d Mangroves and other coastal wetland ecosystems are storm buffers, providing a natural shield against storm surges and combating erosion
  - e Wetlands can be biodiversity hotspots and provide refuge for plants and animals vulnerable to storms, flooding and rising sea levels.

### **Te whakatūtakitaki Engagement**

78. This report represents the first public communication from Greater Wellington on wetlands matters following the Court of Appeal judgment in the Page and Crosbie case.
79. There is currently ongoing engagement with MfE and the Chair has written to the Minister to highlight some of the gaps in the current framework.

### **Ngā tūāoma e whai ake nei Next steps**

80. Greater Wellington is currently liaising with MfE and experts across the Regional Sector to commission a piece of work which could use case studies and statistical analysis test the Vegetation Tool.
81. Greater Wellington will develop a list of external experts in wetland vegetation, soils, hydrology and fauna to support future proceedings. We will use a sample of these

experts to review some of our recent use of the Soil and Hydrology Tools to ensure our practices are sufficient to support enforcement proceedings.

- 82. Greater Wellington has requested from MfE to produce some guidance on the 'constructed wetland' exclusion. We will continue to liaise with the sector to ensure we are all applying this exclusion consistently.
- 83. Greater Wellington has currently requested for MfE to commission guidance to assist with wetland fauna identification to support our wetland delineation. The council will continue to work with both MfE and other regional councils on the development of resources, tools and guidance and will continue to consult with other experts in the sector to ensure methods are aligned and reflect best practice.

**Ngā āpitihanga  
Attachments**

Number	Title
1	Wetland state of play summary

**Ngā kaiwaitohu  
Signatories**

Writers	Staff from across Rōpū Taiao including Matt Hickman, James Luty, Shaun Andrewartha, David Keane, Jo Francis, Will Syben, Henk Louw, Chloë Nannestad, Helen White
Approvers	Fathima Iftikar – Hautū Rautaki, Kaupapa Here me ngā Waeture   Director Strategy, Policy and Regulation David Hipkins – Hautū Whai Māramatanga   Director Knowledge and Insights Lian Butcher – Kaiwhakahaere Matua, Taiao   Group Manager, Environment

<b>He whakarāpopoto i ngā huritaonga Summary of considerations</b>
<p><b><i>Fit with Council’s roles or with Committee’s terms of reference</i></b></p> <p>Matters in this report address the management and regulation of wetlands; the regulatory framework for this sits in the Natural Resources Plan and Regional Policy Statement. Environment Committee has oversight of Environmental strategies, policies, plans, programmes, initiatives and indicators to improve environmental outcomes for the Wellington Region’s land, water, air, biodiversity, natural resources, parks and reserves, and coastal marine area (1a) as well oversight of regulatory systems (1c).</p>
<p><b><i>Contribution to Annual Plan / Long Term Plan / Other key strategies and policies</i></b></p> <p>Protection and enhancement of the natural environment is a key role for Greater Wellington with the regulatory framework being set out in the Natural Resources Plan and Regional Policy Statement and funded through the Long-Term Plan.</p>
<p><b><i>Internal consultation</i></b></p> <p>Strategy, Policy &amp; Regulation, Knowledge &amp; Insights, Delivery, Legal &amp; Procurement and Te Hunga Whiriwhiri.</p>
<p><b><i>Risks and impacts - legal / health and safety etc.</i></b></p> <p>This paper relates to the results of legal proceedings and has been reviewed by a legal team.</p>

Summary of Greater Wellington’s approach to wetland protection in the Wellington Region

	<b>Adams (Mangaroa)</b>	<b>Page + Crosbie (Anlaby Rd)</b>	<b>Current state in 2024</b>	<b>Further work required</b>
	<ul style="list-style-type: none"> <li>• First site visit April 2019</li> <li>• Subdivision approved Feb 2020 (PNRP definition applied)</li> <li>• Charges filed May 2021 (NPS-FM definition applied)</li> <li>• Decision March 2022</li> </ul>	<ul style="list-style-type: none"> <li>• First site visit Oct 2019</li> <li>• Charges filed 18 Jun 2020</li> <li>• District Court Trial May 21</li> <li>• Found guilty Sep 21</li> <li>• High Court Appeal 31 Mar 22</li> <li>• Appeal dismissed 12 Apr 22</li> <li>• Appeal to Court of Appeal</li> <li>• Appeal Court hearing 9 Nov 23</li> <li>• Decision of COA 11 March 24</li> </ul>	<ul style="list-style-type: none"> <li>• Case law has now been updated and clarified the burden of proof required within criminal and civil courts.</li> </ul>	
<p>Significance of wetlands in regulatory instruments</p> <p><i>In consideration since the cases</i></p>	<p>All wetlands considered significant as per advice note in ‘natural wetland’ definition in 2019 “Decisions” version of the PNRP</p>	<p>All wetlands considered significant as per advice note in ‘natural wetland’ definition in 2019 “Decisions” version of the PNRP</p>	<p>NRP classified all wetlands as being significant</p>	<p>Site-based assessment of significance may be required.</p> <p>Therefore, with time, we may need to revisit how significance of wetlands is set.</p>
<p>Methodology</p> <p><i>Has changed since the cases and further work is being done</i></p>	<p><b>Evidence did not fulfil requisite burden of proof.</b></p> <p>Consultants’ experts wetland delineation report and data used to inform Council’s view on wetland extent. They used the Vegetation Tool and collected soils data. This evidence did not fulfil requisite burden of proof.</p> <p>Soils and Hydrology Tools not used.</p> <p>Pasture exclusion to wetland definition not evidenced sufficiently.</p> <p>Councils’ experts not directly criticised, but opposing experts evidence favoured over ours.</p>	<p><b>Evidence did not fulfil requisite criminal standard of proof.</b></p> <p>Council’s expert delineated wetlands on site using Vegetation Tool. Vegetation Tool criticised by the court and found to have an inherent ‘level of doubt’ which means it alone is insufficient evidence.</p> <p>Soils and hydrology Tools not used.</p> <p>Damp gully head and constructed wetlands exclusions not evidenced sufficiently.</p> <p>Wetland fauna evidence insufficient.</p> <p>Council’s expert found to not have requisite qualification for soils, hydrology and fauna. Observed that Council’s expert does not have ecology qualification.</p>	<p>Council continues to use the Vegetation Tool as it is the best tool available.</p> <p>Soils and Hydrology Tools are deployed for compliance and enforcement delineation work.</p> <p>Senior field ecologists have training in all three Tools and lead all compliance and enforcement delineation work.</p> <p>Pasture exclusion method available and senior field ecologists are trained in its use.</p> <p>Wetland team has grown from two to three. Wetland scientist has doctorate and senior field ecologists are fully trained in wetland delineation. This team will oversee all wetland delineation work.</p>	<p>Further investigation of the Vegetation Tool required to test its suitability for supporting criminal cases.</p> <p>Develop a list of experts for vegetation, soils and hydrology work for wetland delineation.</p> <p>Seeking guidance from MfE on interpretation of ‘deliberately constructed wetland’ definition.</p> <p>Advocating for MfE to commission guidance to assist with wetland fauna identification for wetland delineation.</p>

	<b>Adams (Mangaroa)</b>	<b>Page + Crosbie (Anlaby Rd)</b>	<b>Current state in 2024</b>	<b>Further work required</b>
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<p>Enforcement approach</p> <p><i>Remains the same since the cases</i></p>	<p><b>Enforcement order filed</b></p> <p>The reasoning behind Greater Wellington’s application for an enforcement order at Mangaroa was that a residential subdivision had been granted a consent to build by Upper Hutt City Council despite 15ha of the area being identified as a natural wetland by Greater Wellington regulatory officers working with Greater Wellington wetland experts.</p> <p>To prevent further damage to the ecosystem, Greater Wellington sought to protect the contended natural wetland and impose restrictions on the lots of the subdivision that had been sold.</p>	<p><b>Prosecution</b></p> <p>Greater Wellington prosecuted a landowner and her partner (who carried out the works on the property) for 35 offences each in relation to a property at Anlaby Road, Kāpiti. Twenty-nine of the charges alleged wetland offending.</p>	<p>No changes to enforcement processes or decision making.</p>	<p>For wetland cases the case law coming from the Adams and Page and Crosbie cases has given us clarification on the evidential tests required to prove wetland existence ‘beyond reasonable doubt’.</p>
<p>Wetland definition</p> <p><i>In consideration since the cases</i></p>	<p><b>Definitions considered by the Courts were from the PNRP:</b></p> <p>“Decisions” version PNRP (July 2019): <b>Natural wetland</b> is a permanently or intermittently wet area, shallow water and land water margin that supports a natural ecosystem of plants and animals that are adapted to wet conditions, including in the beds of lakes and rivers, the coastal marine</p>	<p><b>NPS-FM 2020: 2022 amendments to the definition</b></p> <p><b>Natural inland wetland</b> means a wetland (as defined in the Act) that is not: a) in the coastal marine area; or b) a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural inland wetland; or</p>	<p>RMA definition remains:</p> <p><b>Wetland</b> includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.</p>	<p>GW is considering if the RMA amendments should consider the definition of wetlands in the RMA.</p>



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	<p>area (e.g. saltmarsh), and groundwater-fed wetlands (e.g. springs).</p> <p><b>Natural wetlands</b> do not include:</p> <p>a) damp gully heads, or wetted pasture, or pasture with patches of rushes, or</p> <p>b) areas of wetland habitat in or around bodies of water specifically designed, installed and maintained for any of the following purposes: (i) water storage ponds... ii) water treatment ponds... (iii) beautification, landscaping, amenity, or; (iv) drainage.</p> <p>‘Wetland’ has the same meaning as in the RMA.</p> <p>Note that, because of the rarity of wetlands in the Wellington Region, all <b>natural wetlands</b> will meet the representativeness and rarity criteria listed in Policy 23 of the Regional Policy Statement.</p> <p>NPS-FM 2020 (pre-2022 amendment):</p> <p>A ‘natural wetland’ means a wetland (as defined in the Act) that is <b>not:</b></p> <p>(a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former natural wetland); or</p>	<p>(c) a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body; or</p> <p>(d) a geothermal wetland; or</p> <p>(e) a wetland that:</p> <p>(i) is within an area of pasture used for grazing; and</p> <p>(ii) has vegetation cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species using the Pasture Exclusion Assessment Methodology (see clause 1.8)); unless</p> <p>(iii) the wetland is a location of a habitat of a threatened species identified under clause 3.8 of this National Policy Statement, in which case the exclusion in (e) does not apply.</p> <p>Operative version of the NRP (June 2023): definition aligns with RMA and NPS-FM 2020 (pre-amendment) definitions.</p> <p><b>Natural wetland</b> is a permanently or intermittently wet area, shallow water and land water margin that supports a natural ecosystem of plants and animals that are adapted to wet conditions.</p> <p><b>Natural wetlands</b> do not include:</p> <p>(a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing former natural wetland); or</p>	<p>Damp gully head exclusion removed from natural wetland definition.</p> <p>Constructed wetland wording changed.</p>	

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	<p><i>(b) a geothermal wetland; or</i>  <i>(c) any area of improved pasture that, at the commencement date, is dominated by (that is more than 50 percent of) exotic pasture species and is subject to temporary rain-derived water pooling.</i></p> <p><b>Natural inland wetland</b> means a natural wetland that is not in the coastal marine area.</p>	<p><i>(b) a geothermal wetland; or</i>  <i>(c) any area of improved pasture that, at 3 September 2020, is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain derived water pooling.</i></p>		
Wetlands and consenting  <i>Remains the same since the cases</i>	Consenting was not considered in this case	Consenting was not considered in this case	<p>The onus is on the applicant to provide an ‘Assessment of Environmental Effects’ (AEE) with any application – this assessment should provide an assessment of the effects of the proposal on any wetland OR potential wetland including a delineation of the wetland if necessary.</p> <p>GW will provide the information that we hold or assist applicants in identifying wetlands and of course in mitigating any effects where we can and/or where assistance has been requested by the applicant.</p>	No substantive change required. We will continue to work with applicants as early in the process as possible.
On going restoration and protection of wetlands through	Not applicable	Not applicable	GWRC currently support wetland restoration and protection through a variety of programmes.	

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engagement and education  <i>Remains the same since the cases</i>			<p>The Key Native Ecosystem programme (KNE) is a long-term programme which focusses on sites of ecological significance and representation within the region. There are several KNE sites which include wetlands. These sites can be a combination of Council (both regional and TA) and private land. In the case of private land, there is a contribution towards fencing, planting, and pest animal and plant control from GW. There is an agreement between GW and the relevant landowner, and a five-year plan is drawn up for the site. The programme operates on high trust model which enables landowners to take part without placing restrictions on their property. Landowners can withdraw from the programme at any point.</p> <p>The wetlands programme is smaller and shorter term and aimed at kick-starting conservation and restoration efforts on wetlands on private land. This programme has an application fund format which private landowners apply for. An assessment is made through delineation of the wetland from the</p>	

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			K&I team if the wetland is not already delineated.	
<p>Community engagement and outreach</p> <p><i>Further work required</i></p>	<p>The Mangaroa community have raised concerns of working with GWRC through the RPS hearings.</p> <p>Furthermore, we’ve been advised by UHCC through the PC1 process that we will need to work further with this community to build trust and engagement.</p>	<p>We’ve had good engagement with the neighbours of this property and have been working with them since 2020.</p> <p>We are also connected well with KCDC on this case and the issues around wetland protection in the Kāpiti district.</p>	<p>Our environmental restoration advisors and community engagement teams are well connected with both communities.</p>	<p>We will need to consider how we can re-initiate discussions with the Mangaroa and Upper Hutt communities on engagement across our policy and regulatory settings.</p>

Environment  
9 May 2024  
Report 2024.193



For Decision

## COMPLIANCE MONITORING AND ENFORCEMENT POLICY

### Te take mō te pūrongo

#### Purpose

1. To advise the Environment Committee (the Committee) of the Compliance Monitoring and Enforcement (CME) Policy (the Policy).

### He tūtohu

#### Recommendation

That the Committee:

1. **Endorses** the Compliance Monitoring and Enforcement Policy (Attachment 1).
2. **Notes** that as this will be a living policy document, minor updates will be made to ensure the policy remains up to date and reflects operational practice and national guidelines.

### Te horopaki

#### Context

2. Greater Wellington is required under section 35 of the Resource Management Act 1991 (RMA) to undertake compliance monitoring and enforcement of various activities under its jurisdiction. There is no prescriptive manner outlined in the RMA as to how this work should be done.
3. Most regional councils in recent times have developed a compliance and/or enforcement policy for their region. Greater Wellington has always had various operating procedures and processes in place that guide our compliance monitoring and enforcement activity. However there has not been an overarching policy in place.
4. The purpose of a policy is to provide clarity and transparency to the general public and resource users (i.e. consent holders and others interacting with the environment) on how Greater Wellington goes about its compliance monitoring and enforcement functions.

5. It is not a statutory requirement to have a policy, however it is recommended by the Ministry for the Environment (MfE)<sup>1</sup> and we are required to report to MfE through the annual National Monitoring System whether we have a policy in place.

## **Te tātaritanga**

### **Analysis**

6. Overall, the Policy provides a framework to guide the implementation of compliance monitoring and enforcement activity across the region. It is intended to be an enduring and living policy document, hence it does not specifically outline what activities will be monitored and when, as this can change over time. It does; however, provide clear guidance when developing and implementing operational practice.
7. The first part of the Policy outlines our principles and approach to CME. Many of these principles have been collectively pulled together from the national CME network and so are consistent with how other regional councils approach their CME work. It also states our aspirations and commitment to working alongside our mana whenua partners (see section further below)
8. A large section of the Policy is devoted to outline our proactive and reactive monitoring programmes. For each of these programmes an overall approach is stated which provides clear, in-principle guidance to the development and implementation of each programme:
  - *Our approach to resource consent monitoring is to direct focussed resources and monitoring effort to high risk activities, some resources into medium risk activities, and minimal or nil resources into low risk activities.*
  - *Our approach is to direct resources into permitted activity monitoring when need arises. Unless there is a compelling reason, a programme will only be initiated if our high and medium risk consenting monitoring programme is completed and/or on target.*
  - *Our approach is to respond to environmental incidents based on priority and risk. The nature and scale of environmental effect is the primary consideration when managing a response.*
  - *Our approach is to respond to any observed non-compliance in a manner that is proportionate to the overall circumstances of the non-complying activity.*
9. In each of the CME programmes, more specific detail is provided on the programmes e.g. how our compliance monitoring programme and environmental incident response service is prioritised, the enforcement tools available to us, and how and who makes enforcement decisions.
10. As this will be a living policy document, minor updates will be made to ensure the policy remains up to date and reflects operational practice.

<sup>1</sup> Ministry for the Environment. 2018. *Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991*.

11. Our legal team have reviewed the Policy and advised that the Policy is robust and fit for purpose.

**Ngā hua ahumoni**  
**Financial implications**

12. The proposed decision does not have any financial implications.

**Ngā Take e hāngai ana te iwi Māori**  
**Implications for Māori**

13. The Policy affirms Greater Wellington's commitment to Te Tiriti through our mana whenua partnerships. There are many opportunities in the CME space to work together with mana whenua which are included in the Policy. They are not intended to be an exhaustive list but a starting point for an enduring and growing relationship on CME with our mana whenua partners.

**Te huritao ki te huringa o te āhuarangi**  
**Consideration of climate change**

14. The matters requiring decision in this report were considered by officers in accordance with the process set out in Greater Wellington's Climate Change Consideration Guide 2020.
15. The proposed matters neither contributes to nor is at odds with Council's and Greater Wellington's policies and commitments relating to climate change.

**Ngā tikanga whakatau**  
**Decision-making process**

16. There is no formal statutory requirement and formal delegations for endorsing and adopting this Policy, however it is considered best practice for the Policy to be adopted by the appropriate Council Committee.
17. The matters requiring decision in this report were considered by officers against the decision-making requirements of Part 6 of the Local Government Act 2002.

**Te hiranga**  
**Significance**

18. Officers have considered the significance (as defined by Part 6 of the Local Government Act 2002) of these matters, taking into account Council's *Significance and Engagement Policy* and Greater Wellington's *Decision-making Guidelines*. Officers recommend that these matters are of low significance. This is because the Policy formalises the framework that provides guidance for implementing current practice for compliance monitoring and enforcement. The matters do not impact on Council's capability and capacity and it is consistent with existing Council policy and practice.

**Te whakatūtakitaki**  
**Engagement**

19. Due to the low significance of this matter for decision, no engagement was considered necessary.

**Ngā tūāoma e whai ake nei**  
**Next steps**

20. The Policy will be passed to our Brands, Insights, & Design team to prepare the material for publication on our website.

**Ngā āpitihanga**  
**Attachment**

Number	Title
1	Compliance Monitoring & Enforcement Policy

**Ngā kaiwaitohu**  
**Signatories**

Writer	Stephen Thawley – Project Leader, Environmental Regulation
Approvers	Shaun Andrewartha – Manager, Environmental Regulation Fathima Iftikhar – Director, Strategy Policy & Regulation Lian Butcher – Kaiwhakahaere Matua Taiao   Group Manager Environment



<b>He whakarāpopoto i ngā huritaonga Summary of considerations</b>
<b><i>Fit with Council’s roles or with Committee’s terms of reference</i></b> The Committee oversees the regulatory systems, process and tools to meet our related legislative responsibilities. This Policy will help guide Greater Wellington’s compliance monitoring and enforcements functions required under section 35 of the Resource Management Act 1991. Additionally, the Committee has responsibility to oversee the development and review of ... environment policies.
<b><i>Contribution to Annual Plan / Long Term Plan / Other key strategies and policies</i></b> There is no contribution to any of the above.
<b><i>Internal consultation</i></b> Our Policy team have provided input into the drafting of the Policy.
<b><i>Risks and impacts - legal / health and safety etc.</i></b> Our legal representatives have reviewed the Policy and advised that it is fit for purpose.

**Compliance, Monitoring and Enforcement Policy**



# Compliance Monitoring & Enforcement Policy

April 2024

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**Attachment 1 to Report 24.193**

**Compliance, Monitoring and Enforcement Policy**

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## Attachment 1 to Report 24.193

### Compliance, Monitoring and Enforcement Policy

#### 1. Purpose

This Compliance Monitoring and Enforcement (CME) Policy provides a broad strategic overview on the way Greater Wellington Regional Council (Greater Wellington) administers its compliance, monitoring and enforcement functions under the Resource Management Act 1991 (RMA).

The Policy outlines the following:

- Principles and approach to CME
- Mana whenua and CME
- Our proactive monitoring programme including resource consent monitoring and permitted activity monitoring
- Our reactive monitoring programme including our incident response service
- Dealing with non-compliance arising from the above programmes
- Conflicts of interest and cost recovery with CME

The Policy is informed by and is consistent with the Regional Sector Strategic Compliance Framework 2019-2024<sup>1</sup> and the Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991<sup>2</sup>.

Whilst the implementation of the Policy is largely undertaken by the Environmental Regulation Unit within Greater Wellington, CME activities are not limited to Environmental Regulation. Accordingly, it is important to emphasise that the Policy applies to all of Greater Wellington.

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<sup>1</sup> Compliance and Enforcement Special Interest Group. 2019. *Regional Sector Strategic Compliance Framework 2019-2024*.

<sup>2</sup> Ministry for the Environment. 2018. *Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991*.

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**Compliance, Monitoring and Enforcement Policy**

**2. Principles and approach to CME**

**2.1 Principles**

The following operating principles will be adopted and applied by Greater Wellington when developing and implementing CME programmes and responses:

*Transparent*

We will provide clear information and explanation to the regulated community about the standards and requirements for compliance. We will ensure that the community has access to information about industry environmental performance as well as actions taken by us to address environmental issues and non-compliance.

*Consistent*

Our actions will be consistent with the legislation and within our powers. Compliance and enforcement outcomes will be consistent and predictable for similar circumstances. We will ensure that our staff have the necessary skills and are appropriately trained, and that there are effective systems and policies in place to support them.

*Fair, reasonable and proportional*

We will apply regulatory interventions and actions appropriate for the situation. We will use our discretion justifiably and ensure our decisions are appropriate to the circumstances and that our interventions and actions will be proportionate to the risks posed to environment and people, and the seriousness of the non-compliance.

*Evidence-based, informed*

We will use an evidence-based approach to our decision-making. Our decisions will be informed by a range of sources, including sound science, the regulated parties, information received from other regulators, members of the community, mana whenua partners, industry and interest groups.

*Collaborative*

We will work with and, where possible, share information with other regulators and stakeholders to ensure the best compliance outcomes for our regions. We will engage with the community and consider public interest, to explain and promote environmental requirements, and achieve better community and environmental outcomes.

*Lawful, ethical and accountable*

We will conduct ourselves lawfully and impartially and in accordance with these principles and relevant policies and guidance. We will document and take responsibility for our regulatory decisions and actions. We will measure and report on our regulatory performance.

*Targeted*

We will focus on the most important issues and problems to achieve the best environmental outcomes. We will target our regulatory intervention at poor performers and illegal activities that pose the greatest risk to the environment. We will apply the right tool for the right problem at the right time.

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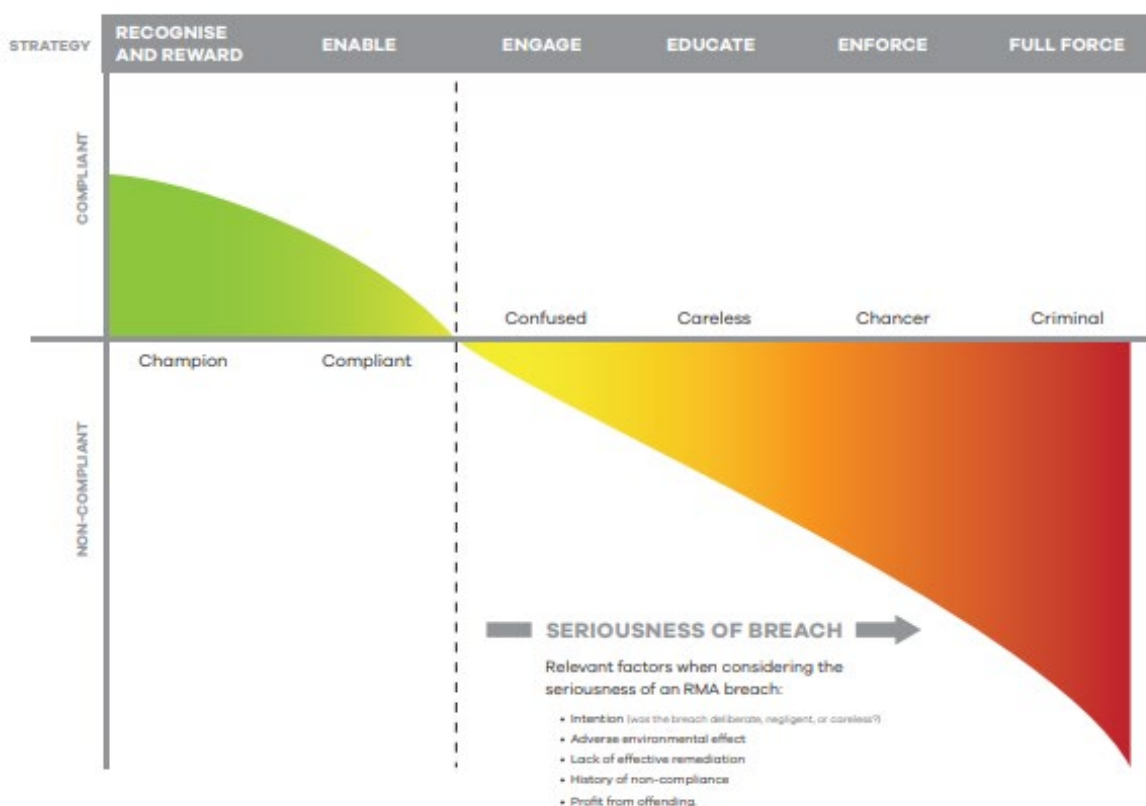
*Responsive and effective*

We will consider all alleged non-compliance to determine the necessary interventions and action to minimise impacts on the environment and the community and maximise deterrence. We will respond in an effective and timely manner in accordance with legislative and organisational obligations.

**2.2 Approach**

Greater Wellington will adopt the Mark II Model approach when performing its CME functions. This model builds on the earlier and well know 4 E’s model (enable, engage, educate, and enforce).

**The Mark II Model – Strategic compliance with the RMA.**



The aim of this model is to understand and influence behaviour across a range of both compliant and non-compliant activities. More specifically the 4 E’s are broadly defined below:

*Engage*

Consult with monitored parties, stakeholders and the community on matters that may affect them. This will require maintaining relationships and communication until final outcomes have been reached. This will facilitate greater understanding of challenges and constraints, engender support and identify opportunities to work with others.

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*Educate*

Alert monitored parties to what is required to be compliant with consent conditions and where the onus lies to be compliant. Education should also be utilised to inform the community and stakeholders about what regulations are in place around them, so that they will better understand what is compliant and what is not.

*Enable*

Provide opportunities for monitored parties to be exposed to industry best practice and regulatory requirements. Link monitored parties with appropriate industry advisors and promote examples of best practice.

*Enforce*

When breaches of regulation, or non-compliance, are identified then an array of enforcement tools are available to bring about positive behaviour change. Enforcement outcomes should be proportional to individual circumstances of the breach and culpability of the party.

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**3. Mana whenua and CME**

Greater Wellington is committed to outworking Te Tiriti through mana whenua partnerships with the following:



Māori have recognised roles and responsibilities as kaitiaki (guardians) of our natural environment and resources. As part of exercising kaitiakitanga; mātauranga Māori (a body of Māori knowledge) is a vital component in understanding the natural world and human interaction with it.

There is close alignment with mana whenua aspirations and their unique kaitiakitanga role with the compliance monitoring and enforcement role entrusted to Greater Wellington. We have a common and connected role to protect the natural environment and ensure that the impacts of use of our natural resources is not done in a harmful manner.

To this end Greater Wellington is committed to ensure the following occurs:

- Integrating mana whenua aspirations and priorities into the implementation of this Policy.
- Inform the year to year direction of our risk based compliance monitoring programme.
- Explore opportunities for mana whenua to participate in decision making on enforcement options.
- Explore opportunities for partnering with mana whenua to equip and resource mana whenua to undertake compliance monitoring and enforcement in the region.
- Increase cultural competency for Greater Wellington staff on mātauranga Māori and Tiriti considerations within CME

This is not intended to be an exhaustive list of commitments but a starting point to foster an enduring and growing relationship on CME with our mana whenua partners.



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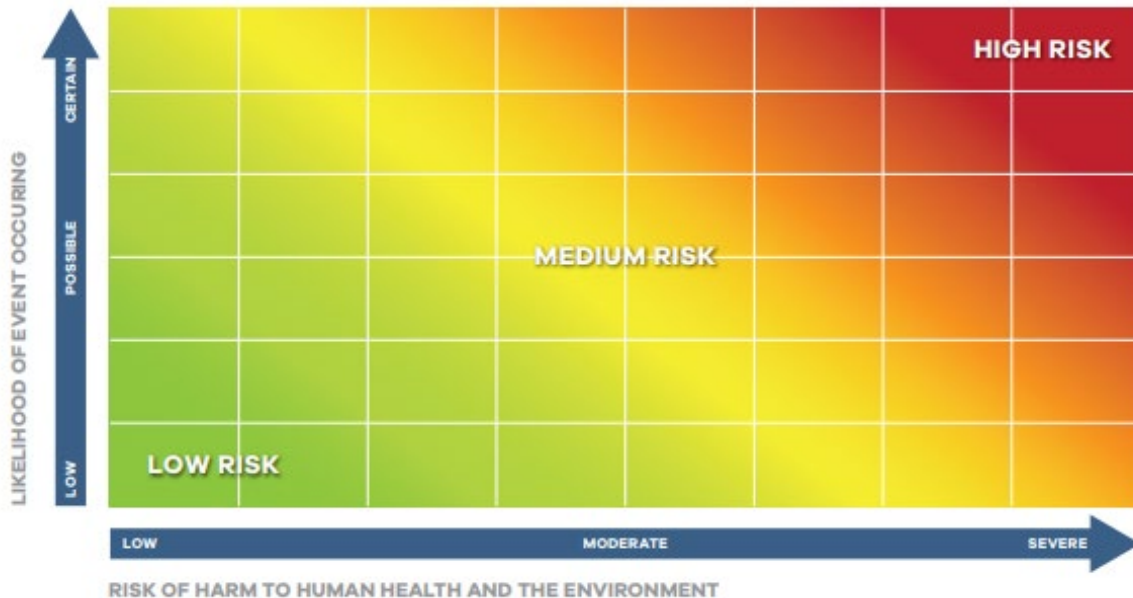
**Compliance, Monitoring and Enforcement Policy**

**4. Proactive monitoring**

**4.1 Resource consent monitoring programme**

Our approach to *resource consent monitoring* is to direct focussed resources and monitoring effort to high risk activities, some resources into medium risk activities, and minimal or nil resources into low risk activities

Greater Wellington issues approximately 600 resource consents per year. In total there are over 7000 active resource consents in the region. Like most other regulatory organisations, Greater Wellington does not have resources to monitor every resource consent on a frequent basis. Hence since 2015, Greater Wellington has operated a risk based compliance monitoring programme. A risk based monitoring approach is based on the following model:



Our approach is to direct more resources and monitoring effort to high-risk activities and less or nil resources into low risk activities. A review of time spent monitoring resource consents in 2022 showed that 76% of our efforts in the previous year were focussed on high-risk activities.

The process for determining our risk-based programme for resource consent monitoring uses the following three steps:



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4.1.1 Step 1 – Broad activity categorisation

The purpose of activity categorisation is to provide broad activity groups to assist with prioritising compliance programmes. The current activity categorisation is listed in Appendix 1 to this Policy and is subject to ongoing review.

4.1.2 Step 2 – Activity prioritisation and risk profiling

The purpose of activity prioritisation and risk profiling is to provide guidance on the type and frequency of monitoring programme to be applied to each resource consent. Each activity is split into three risk profiles – high, medium, and low, based on the model presented in 4.1 of this Policy and the guiding principles below:

<b>High</b>	<ul style="list-style-type: none"> <li>• Minimum frequency of inspection/audit is annual, possibly greater in some instances</li> </ul>
<b>Medium</b>	<ul style="list-style-type: none"> <li>• Either annual or three yearly inspection/audit</li> <li>• Could be reprioritised to low risk if resources are unavailable to complete monitoring</li> </ul>
<b>Low</b>	<ul style="list-style-type: none"> <li>• Some consents will not be monitored</li> <li>• If inspection/audit required, most likely set up with less than annual frequency e.g. once every three years</li> </ul>

The following factors are considered when prioritising activities and their risk profiles:

Risk factor	Description
Nature and scale of actual and potential effects	The scale of the activity and its associated actual or potential effects on the environment
Environmental performance	The historical performance of the activity and the consequential risks of non-compliance
Natural Resources Plan (NRP) & Whaitua considerations	The priority or weight the NRP and Whaitua Implementation Plans gives to the activity
National regulations	How much national regulations play are part in determining the need for compliance
Local community and regional context	The impact the activity has on the local surrounding community including neighbours and any regional context (e.g. Long Term Plan / Council considerations)

We will engage and partner with mana whenua to determine appropriate priorities within the current context. As the risk profile and prioritisation can change over time, the risk based compliance programme is reviewed each year.

4.1.3 Step 3 – Application of risk rating to resource consents

Activity based risk ratings are then applied to all resource consents when approved and regularly reviewed during the life cycle of the consent.

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**4.2 Permitted activity monitoring programme**

Our approach is to direct resources into *permitted activity monitoring* when need arises. Unless there is a compelling reason, a programme will only be initiated if our high and medium risk consenting monitoring programme is completed and/or on target

Greater Wellington's Natural Resources Plan (NRP) identifies a number of permitted activities where work can be undertaken without the need of a resource consent. In addition to NRP permitted activities, there are also permitted activities identified through National Environment Standards (NES) e.g. for forestry and freshwater activities.

Our priority is to monitor resource consents first, however where resources allow, permitted activity monitoring will be undertaken. A similar approach to risk based compliance monitoring of resource consent is applied when considering what permitted activities will be monitored.

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**Compliance, Monitoring and Enforcement Policy**

**5. Reactive monitoring**

**5.1 Environmental incident response service**

Our approach is to respond to *environmental incidents* based on priority and risk. The nature and scale of environmental effect is the primary consideration when managing a response

Greater Wellington operates an environmental incident response service where the general public can call our hotline if they are concerned about any activity potentially harming the environment. There are many notifications that are made to Greater Wellington that are outside of the scope of CME responsibilities. Where possible, in these instances we will refer the notifier or incident to the relevant organisation.

Notifications of environmental incidents are triaged using a risk-based approach into either high priority / significant or standard / low priority

**High priority / significant incidents**

- Unauthorised discharges of wastewater to water
- Significant unauthorised discharges of sediment to water
- Significant unauthorised streamworks
- Chemical spills where adverse effects on the environment are likely

**Standard / low priority incidents**

- Outdoor burning
- livestock access to waterways
- Historic works
- Aerial spraying
- Dead animals
- Water takes

While we will endeavour to get to all incidents regardless of their priority, some incidents of low risk are not attended. The general expectation is the on-call officer will attempt to contact the notifier regardless of if it was attended. All notifications are logged.

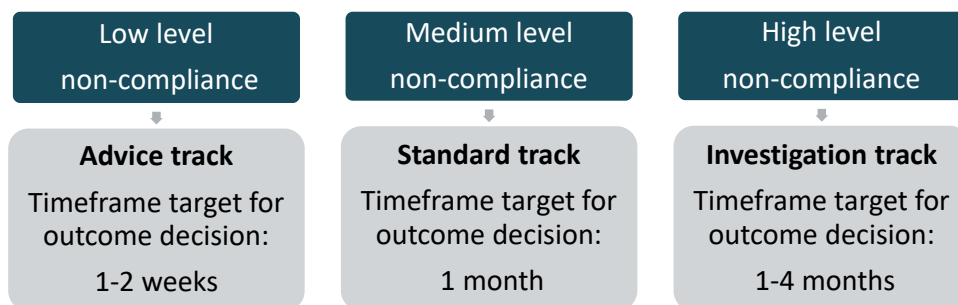
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**6. Dealing with non-compliance**

Our approach is to respond to any observed *non-compliance* in a manner that is proportionate to the overall circumstances of the non-complying activity

Where non-compliance is identified through any of our proactive and reactive programmes, Greater Wellington will respond in a manner that is proportionate to the overall circumstances of the non-compliance. This is reflected in our Non-Compliance Decision Framework in Appendix 2 and summarised below:



*Note: Following review some medium level non-compliance may be channelled through the advice track.*

**6.1 Enforcement tools**

There are a wide variety of enforcement tools available for use within the Non-Compliance Decision Framework. They can be broken down into Directive Actions and Punitive Actions:

**6.1.1 Directive actions**

*Advisory notice*

An advisory notice is used in a minor to moderate situation with a cooperative, motivated party. It is designed to prevent further breaches, or to remedy or mitigate the effects of non-compliance. Normally the notice will give timelines and what action should be taken or ceased. Such a direction is not legally enforceable. It may however be taken into future decision making should the matter not be resolved within the timeframes given.

*Abatement notice*

An abatement notice is a formal, written directive. The form, content and scope of an abatement notice are prescribed in the RMA. It is written and issued by a warranted officer and will instruct an individual or company to cease an activity, prohibit them from commencing an activity or requiring them to take action. An abatement notice is legally enforceable. An abatement notice may be appropriate any time there is a risk of further breaches of environmental regulation, or remediation or mitigation is required as a result of non-compliance.

*Enforcement order*

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An enforcement order is similar in some respects to an abatement notice as it can direct an individual or company to take the same actions contained in the abatement notice. However an enforcement order is granted by the courts so the options can be far in excess of the scope of an abatement notice. An enforcement order is legally enforceable. An application can be made to recover all reasonable costs of an enforcement order from the offending party. Enforcement orders can be sought as an individual action or as part of sentencing after being found guilty of an offence.

**6.1.2 Punitive actions**

*Formal warning*

A formal warning is a written warning to a person or company that has committed an offence. No further action will be taken in respect of the breach, but it will form part of the history of non-compliance.

*Infringement notice*

An infringement notice can be issued to an individual or company that has committed an RMA offence. The infringement fine is up to \$1000 depending on the type offence, and if not paid in certain timeframes, will be sent to the Ministry of Justice for fine collection (where further fees are likely to be added). Infringement notices can be disputed.

*Prosecution*

A prosecution is a process for taking a serious breach through the criminal courts. Charging documents are laid in the District Court and must be proved beyond reasonable doubt and criminal evidential standards apply. The matter is presided over by a District Court judge who specialises in Environment Court matters. The hearing is held in the District Court. People or companies who face prosecution will be served with a summons, which will provide information regarding dates and location of the court hearing.

**6.2 Enforcement decision making**

**6.2.1 What are factors to consider?**

Enforcement can be complex and there are many factors to consider. The RMA provides potentially large penalties for those who breach, however, it does not offer any guidance as to determining what is serious and what is less so. The Courts have provided some helpful guidelines<sup>3</sup> as to what factors are appropriate to consider to determine seriousness of a breach. These guidelines are reflected in the diagram on the following page:

It is important to note that not every factor will be relevant every time. On occasion one single factor may be so overwhelmingly aggravating, or mitigating, that it may influence the ultimate decision. It is inappropriate to take a numerical approach to weighing and balancing these factors. Each case is unique, and the individual circumstances need to be considered on each occasion to achieve a fair and reasonable outcome. The discretion to take enforcement action, or not, sits solely

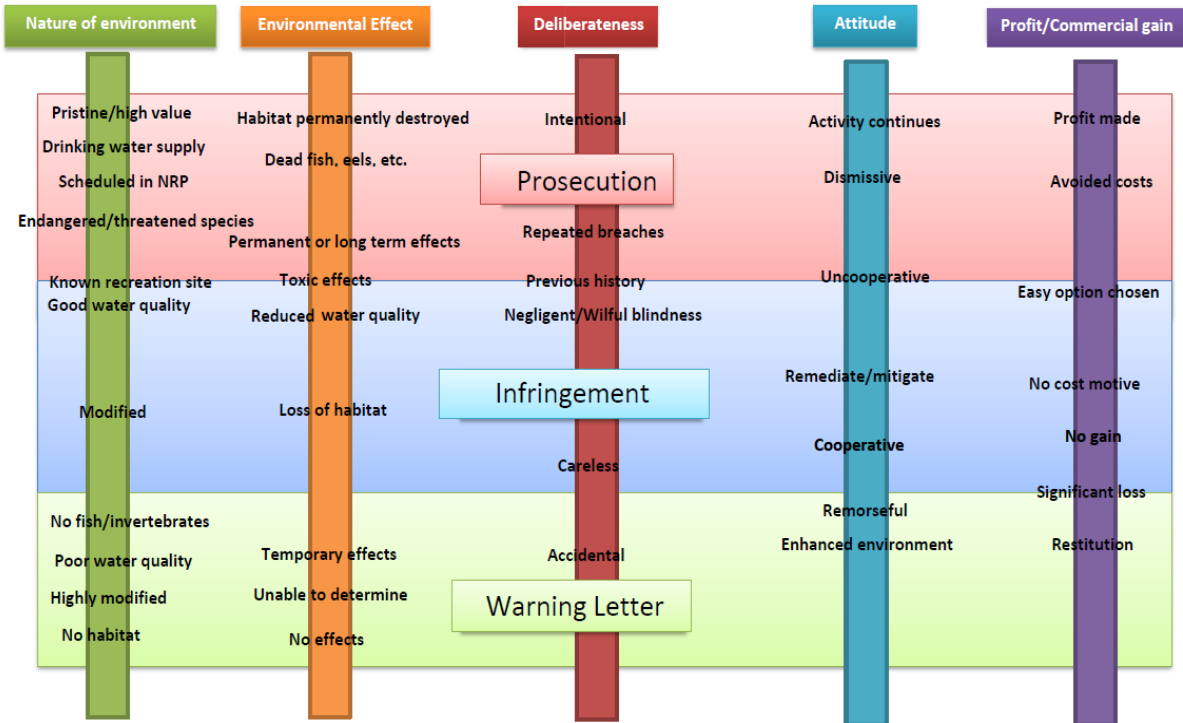
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<sup>3</sup> Machinery Movers Limited –v Auckland [1994] 1 NZLR 492 & Selwyn Mews Ltd –v- Auckland City Council HC Auckland CRI -2003-404-159

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**Compliance, Monitoring and Enforcement Policy**

with the regulatory agency. Also, on the following page are a series of helpful questions that be useful in the decision making process:



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Significance of the actual or potential effects	Nature of the offending	Legal considerations	Desired outcome
<ul style="list-style-type: none"> <li>•What are the actual adverse effects that have occurred from the breach?</li> <li>•What are the likely or potential adverse effects arising from the breach?</li> <li>•What is the value or sensitivity of the environment affected by the breach?</li> <li>•What is the toxicity of the discharge? (if relevant)</li> <li>•Was the receiving environment of particular significance to iwi?</li> </ul>	<ul style="list-style-type: none"> <li>•Was the breach a result of deliberate, negligent or careless action?</li> <li>•What degree of due care was taken, and how foreseeable was the incident?</li> <li>•Was there any profit or benefit gained by the alleged offender(s)?</li> <li>•What efforts were made to remedy or mitigate the effects the adverse effects?</li> <li>•How effective was that remediation or mitigation?</li> <li>•Is this incident a repeat non-compliance by the culpable party or has previous enforcement action been taken against the alleged offender(s) for the same or similar breach?</li> <li>•Has the alleged offender(s) failed to act on prior instructions, advice or notice?</li> <li>•Is this incident a one-off, or is it likely to reoccur?</li> <li>•Have steps been put in place to prevent future occurrence?</li> </ul>	<ul style="list-style-type: none"> <li>•How does the unlawful activity align with the purposes and principles of the RMA?</li> <li>•Is the decision to prosecute (or not prosecute) in line with the Solicitor General’s Prosecution Guidelines?</li> </ul>	<ul style="list-style-type: none"> <li>•Is there a desired environmental outcome?</li> <li>•What enforcement action is appropriate to achieve this outcome?</li> <li>•Is there a degree of specific deterrence required for the alleged offender(s)?</li> <li>•Is there a need for a wider general deterrence for this activity or industry?</li> <li>•Is the proposed enforcement action the most cost-effective for the particular level of offending and the desired outcomes sought</li> </ul>

6.2.2 Who makes enforcement decision?

The person(s) responsible for making an enforcement decision is dependent on the track taken in the Non-Compliance Decision Framework. This is summarised below:



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The formal delegation for the issuing of an **abatement notice** and **infringement notice** is with any warranted officer. The decision to issue either of these notices sits with any member of the Environmental Regulation management team. Where the non-compliance goes through the investigation track, an Enforcement Decision Group (EDG) discusses the recommendation before a final decision. The EDG is made up of the warranted officer(s) undertaking the investigation, and other staff not directly connected to the investigation, including two members of the Environmental Regulation management team.

If an EDG agrees to proceed with a **prosecution** and/or **enforcement order**, an independent legal review of the matter is obtained. A key aspect of this review is the consideration of the Solicitor General Prosecution Guidelines (2013), particularly the evidential test and the public interest test. Once a legal review is obtained the matter is referred to the Prosecution Decision Group (PDG) for a final decision. The PDG is made of warranted officer(s) undertaking the investigation, and other relevant staff not directly connected to the investigation, including senior management. Ultimately the formal delegation for each of these enforcement tools is as follows:

- Application for enforcement order under section 314 of the RMA – Manager, Environmental Regulation
- Decision to prosecute for offences under section 338 of the RMA – General Manager, Environment and Manager, Environmental Regulation (jointly)

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**Compliance, Monitoring and Enforcement Policy**

**7. Miscellaneous matters**

**7.1 Conflicts of Interest**

Greater Wellington will carry out all of its CME functions in accordance with its Conflicts of Interest Policy which provided definitions and a process to identify and manage conflicts of interests with employees.

**7.2 Cost recovery**

Greater Wellington recovers all costs associated with its CME functions in accordance with its Resource Management Charging Policy.

**7.3 Minor updates**

The Policy will be reviewed on an ongoing basis each year to ensure it is fit for purpose. If there are only minor updates required, these will be made accordingly and the Policy will be republished. Any substantial updates will be presented to the appropriate Council committee for subsequent approval.

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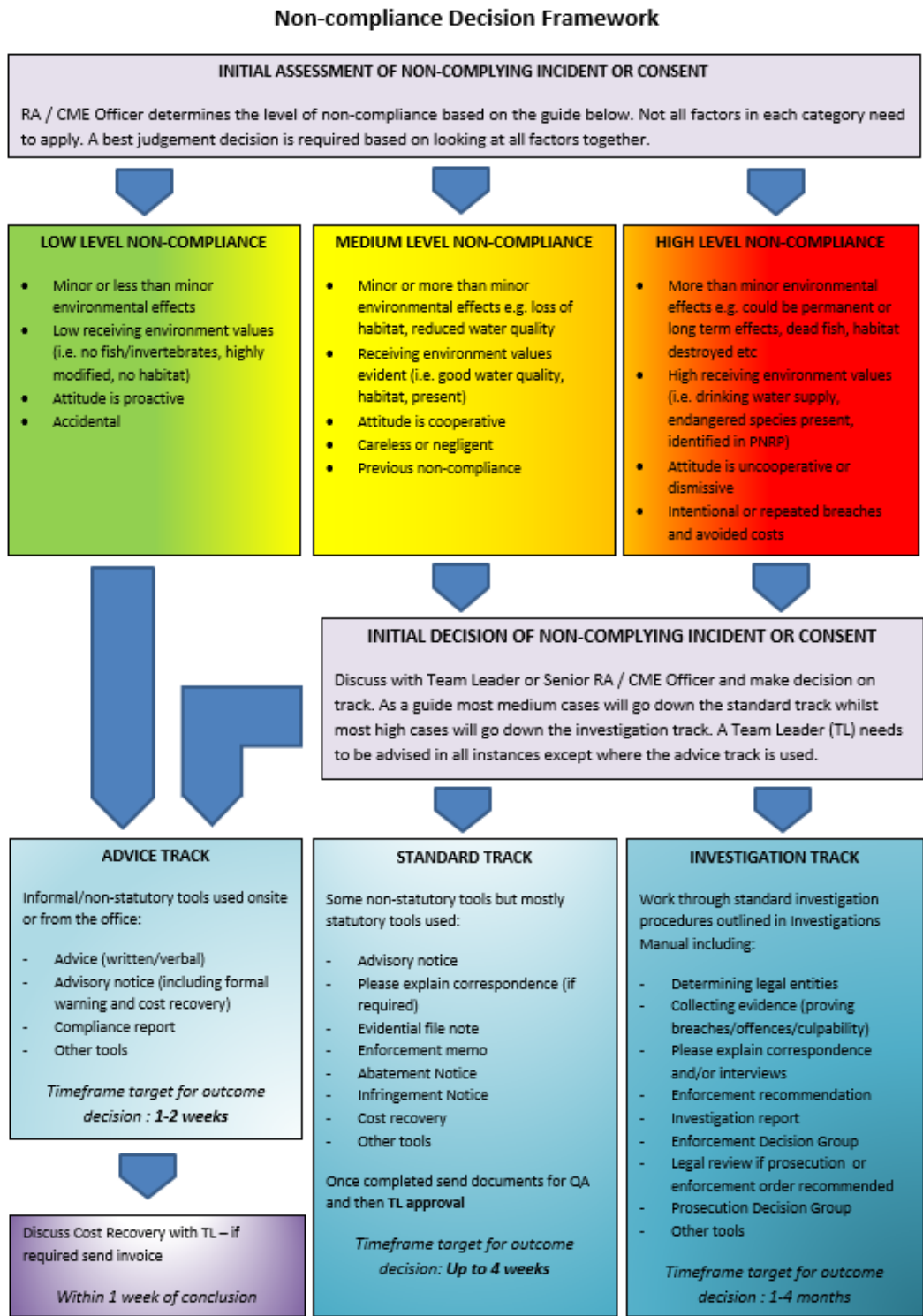
**Compliance, Monitoring and Enforcement Policy**

**Appendix 1 – Resource consent compliance monitoring programmes**

<b>Activity</b>	<b>Description</b>
Agricultural effluent	Mainly dairy farms, but does includes piggeries, chicken farms, and other rural activities e.g. intensive winter grazing and freshwater farm plans
Air discharges	Includes a wide variety of consents e.g. manufacturing plants, asphalt plants, abattoir
Coastal	Covers all coastal activities including boatsheds and reclamation of the CMA
Earthworks	Includes all consents with earthworks including quarries
Forestry	Includes all activities connected to forestry including stream works
Landfills & cleanfills	Includes open and closed landfills and cleanfills
Major projects and global consents	Includes any major projects and/or global consents that cover large areas
Onsite wastewater and wineries	Includes all consents connected to discharges from onsite wastewater systems and wineries
Other discharges	Includes all miscellaneous discharges that do not fit other compliance activities
Stormwater	Includes all consents connected operational or urban stormwater but excludes stomwater discharges arising from earthworks, landfills, cleanfills etc.
Streamworks	Covers all stream work activities excluding any major or global activities
Territorial Authority (TA) water supply	Includes all consents connected public water supplies , water races, other TA activity involving the taking of water
Territorial Authority (TA) wastewater supply	Includes all consents connected public wastewater systems
Takes telemetry	All water takes that are telemetered excluding any takes associated with TA water supplies
Takes – other and bores	All other water takes that are not telemetered including dewatering consents excluding any takes associated with TA water supplies, and all bores

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Appendix 2 – Non-Compliance Decision Framework



**Attachment 1 to Report 24.193**

**Compliance, Monitoring and Enforcement Policy**

Environment Committee  
9 May 2024  
Report 24.201



For Information

## FARMING REFERENCE GROUP CHAIR UPDATE REPORT

### Te take mō te pūrongo

#### Purpose

1. To update the Environment Committee on the items discussed at the Farming Reference Group meeting held on 29 July 2024.

### Te tāhū kōrero

#### Background

2. The Terms of Reference for the Environment Committee and the Farming Reference Group state that a written report will be provided to the Environment Committee after each Farming Reference Group meeting. The Chair of the Farming Reference Group is a member of the Environment Committee and will speak to the written report at each meeting.

### Ngā āpitihanga

#### Attachment

Number	Title
1	<a href="#">Farming Reference Group Chair's Report</a>

### Ngā kaiwaitohu

#### Signatories

Writer	Barbie Barton – Chair, Farming Reference Group
Approvers	Jack Mace – Director Delivery, Environment Group Lian Butcher – Kaiwhakahaere Matua Taiao Group Manager, Environment

<b>He whakarāpopoto i ngā huritaonga Summary of considerations</b>
<b><i>Fit with Council's roles or with Committee's terms of reference</i></b> The Environment Committee's terms of reference state that they will review, after each Farming Reference Group meeting, a written report of the business conducted at that meeting.
<b><i>Contribution to Annual Plan / Long Term Plan / Other key strategies and policies</i></b> The Farming sector is a key demographic within the Greater Wellington Region with a focus on environmental matters.
<b><i>Internal consultation</i></b> There was no internal consultation.
<b><i>Risks and impacts - legal / health and safety etc.</i></b> There are no known risks and impacts related to this report.

**Attachment 1 to Report 24.201**

**Greater Wellington Farmer Reference Group Report - May 2024 following a meeting on 29 April 2024**

To the Greater Wellington Environment Committee

I am writing this report on behalf of the Greater Wellington Farmer Reference Group.

I will start this report where our meeting started with the round table discussion from our members about life on the farm and within their communities.

Dairy farming has had a good season with prices holding for whole milk but the lack of rain is starting to impact grass growth leading to concerns about winter grazing options.

The sheep and beef sector definitely feel they are in a 'green drought' with just enough rain to get the grass started but with shorter days and colder soil temperatures pasture growth is severely compromised at this time of year. A lot of farmers have been feeding out barley and baleage to ewes where they can and hoping this will allow some pasture recovery on the balance of the property.

Sector concern about pending rate rises both from Regional and district entities. With falling incomes there is growing concern that the high capital value of a farm business is not reflected in the ability of that business to cashflow their expenses with interest, rates and insurance all going up.

This lack of cashflow may also impact planting this season as landowners look to reduce the nice to haves from their budgets and focus on the must haves.

It was also highlighted that regions do not appear to do an audit of plantings, both riparian and poplar poles to see what is surviving. This is a topic that the FRG would like to expand on at our next meeting.

The other topic the FRG would like to expand on is the Forestry and fire service standards, GW powers if any and where do the TA's feature- as trees appear on boundaries there is real concern in the rural communities of fire risk but very unclear where the responsibilities lie.

The recent Balance Farm Environment Awards evening was a great success with the Carterton Events centre full for a wonderful evening showcasing good land practice over a variety of land-based operations. Thank you to all who attended and great to see such good representation from GWRC.

Gem and Andy Phillips were worthy winners who have now been judged for the National Showcase and have run a field day on their property.

The Wairarapa Catchment Collective has been set up and received four years of funding from MPI. An interim person has been put in place to manage the project for the first three months while the committee undergo a formal recruitment process. The Wairarapa Catchment Collective is strongly linked to both the GWRC Catchment Team and the separately funded Mountains to Sea.



**Attachment 1 to Report 24.201**

**Resource Management Charging Policy**

FRG committee were made aware of the proposed increase in fees noting there had been no change since 2021.

**Ruamahanga Automated Flood Warning System**

Currently the flood warning system relies on a phone tree which is very time consuming to work through. The change to an automated system will mean everyone receives the same information at the same time through various avenues, phone message, text, SMS, etc.

FRG fully endorsed the change but did comment that this assumes good coverage for the region which is not always the case

**Protection of Soil Conservation works with land encumbrance covenants**

A very interesting discussion held around who owns the plantings that GWRC have helped fund. The conversation has started as some of the older poplar plantings are being ringbarked to make way for pine planting. This highlighted the risk for the plantings as land undergoes both ownership and land use change.

There is no legal framework around the relationship with the landowners and has always worked on a good will model which is the preferred option. The thought if putting legal covenants on the plantings, similar to the QE 2model, was not endorsed by the FRG.

**Eastern Whaitua**

Noted that this is not likely to start this year and there is a lot of discussion to be had a GWRC governance level around plan changes with the directions coming from central government as to when this Whaitua might happen and also the implementation of the nearly completed Kapiti Whaitua.

Thank you  
Barbie Barton  
Chair, GWRC Farmer Reference Group

**Environment Committee**  
**9 May 2024**  
**Report 24.210**



**For Information**

## **TE RŌPŪ TAIAO | ENVIRONMENT GROUP UPDATE**

### **Te take mō te pūrongo**

#### **Purpose**

1. To inform the Environment Committee (the Committee) on:
  - a The strategic direction and priorities of the Environment Group
  - b The work underway, across the region and within each Catchment

### **Te horopaki**

#### **Context**

#### ***Regional Overview***

##### *New Building (Dam Safety) Regulations 2022*

2. Work is underway to prepare for the Building (Dam Safety) Regulations 2022 becoming operative on 13 May 2024. As the “Regional Authority” under the Building Act 2004, the Regional Council is responsible for administering the regulations. This involves:
  - a Adopting and implementing a policy on dangerous dams, earthquake prone dams, and flood prone dams.
  - b Establishing and maintaining a register of dams in the region.
  - c Approving or refusing dam classifications and dam safety assurance programmes, and annual compliance certificates.
3. Greater Wellington currently has a dangerous dams policy but this is out of date and under review. A draft Policy will come to Council in Quarter 4 for approval for consultation using the ‘Have Your Say’ platform, and directly contacting landowners we know have dams on their property. Our website is in the process of being updated to communicate the impending changes, and upcoming consultation.
4. The Regulations impose clear responsibilities on dam owners, mandating Potential Impact Classification (PIC) assessments for each dam that is 'classifiable' (4 or more metres high and storing 20,000 or more cubic metres of water or other fluid). The deadline for submitting these PIC assessments to the Regional Authority (Greater Wellington) is 13 August 2024.
5. Dam owners are also required to develop and submit Dam Safety Assurance Programmes (DSAPs) for each ‘classifiable’ dam assigned a High PIC dam (by 13 August 2025) and a Medium PIC (by 13 August 2026). There will be ongoing annual compliance thereafter. Greater Wellington will communicate with landowners known to have a

dam on their property to provide information about how to comply with the new regulations.

6. Greater Wellington owns and/or manages at least four classifiable dams. All but one have had their PIC assessment reviewed and approved by a Recognised Engineer and will be submitted to the Regional Authority ahead of the 13 August 2024 deadline. The remaining PIC is planned for completion by 30 June 2024. Currently there are only two classifiable dams assigned a High or Medium PIC (Seton Nossiter and Stebbings). Greater Wellington will continue developing these two DSAPs in line with the Regulations, ahead of the 13 August 2025 deadline.

Dam	River or stream	Dam height	Reservoir volume	PIC
Seton Nossiter	Belmont Stream	32.8 metres	1,800,000 m <sup>3</sup>	High
Stebbins	Porirua Stream	19.8 metres	530,000 m <sup>3</sup>	High
Barrage Gates	Lake Wairarapa	5-6 metres	27,000,000 m <sup>3</sup>	TBD
Birchville	Clarkes Stream	15 metres	22,000 m <sup>3</sup>	Low

*Rabbit testing*

7. Annual Rabbit Haemorrhagic Disease Virus (RHDV) testing is currently underway with fly traps being retrieved and processed to be sent for testing. Fly’s are vectors for the disease and carry it on their feet, so trapping them and collecting samples off a film paper they walk over in the traps will give us information what strain of the virus is present. Last year's test results have come back with no RHDV located in the samples we collected within the Region.

*Marine and Coastal Area customary rights*

8. The Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) was introduced in 2011, replacing the Foreshore and Seabed Act 2004. This legislation was aimed to restore customary interests previously extinguished under the 2004 Act, establish statutory tests for recognising customary interests and provide for public access.
9. Under the Act, Māori can obtain legal rights in the form of customary marine titles or protected customary rights, with two application pathways available; wāhi tapu protections can then be applied for. Māori can apply to the High Court for a recognition order or engage directly with the Crown or do both. In each case, applications for customary rights had to be filed by the statutory deadline of 3 April 2017.

Claims that cover the Wellington Region can be seen the map below:

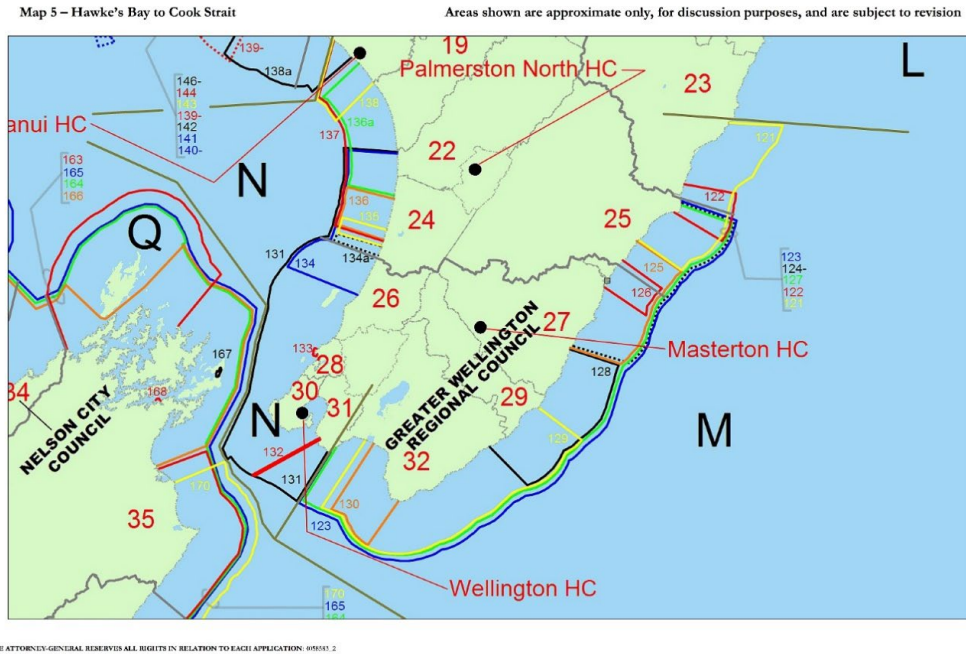


Figure 1: Wellington Regional Map – Claim areas for Marine and Coastal customary rights

10. Courts of New Zealand maintains the list of applications.<sup>1</sup> Te Arawhiti – Office of Māori Crown Relations has a list of applications in direct negotiation with the Crown.<sup>2</sup> Hearings have been ongoing for claims covering the region with Greater Wellington an interested party in these proceedings.
11. The key mechanisms are:
  - a Protected customary rights (PCR's) – allowing certain traditional practices to be exercised without regulatory constraint e.g. collection of hangi stones.
  - b Customary Marine Title (CMT) – this is similar to, but not the same as, ownership. It comes from a common law concept which recognises property rights of Māori that have continued since or before acquisition of Crown sovereignty to the present day. CMT is inalienable – the land cannot be sold. It cannot be converted to freehold title. It recognises the relationship that existed, and that will continue to exist between iwi and hapū and the marine and coastal area.
12. The Court has confirmed that several applicant groups have satisfied the statutory test for CMT over different sections of the Common Marine and Coastal Area (CMCA) in the area between Turakirae Head and Whareama River (Southern Wairarapa hearing area)

<sup>1</sup> <https://www.courtsofnz.govt.nz/the-courts/high-court/high-court-lists/marine-and-coastal-list-applications/>

<sup>2</sup> <https://www.tearawhiti.govt.nz/te-kahui-takutai-moana-marine-and-coastal-area/applications/>

and the wāhi tapu hearing for this area has been completed. Essentially it means that the CMT group have a number of rights, including:

- a A Resource Management Act 1991 (RMA) permission right – despite a grant of resource consent the consented activity may not be commenced in the CMT area without permission of the CMT group. The decision of the CMT group to give or decline an activity is not subject to appeal or objection.
  - b A conservation permission right – similarly, this enables the CMT group to give or decline permission to the establishment of, for example, a reserve.
  - c A wāhi tapu protection right – a CMT group may seek to include recognition of wāhi tapu in the CMT order or agreement. If recognised in accordance with tikanga to protect an area prohibitions or restrictions of access may be applied.
  - d The right to create a planning document – the CMT group can prepare a planning document in accordance with tikanga. Once lodged, the document must be taken into account when making any decision under the Local Government Act 2002 in relation to the CMT area.
13. Greater Wellington participated in this hearing taking a neutral position on whether wāhi tapu protections should be granted but with an interest in ensuring that the below activities can continue and is discussing suitable excursions with applicant groups:
- a Greater Wellington’s regulatory responsibilities under the Act, RMA and other legislation
  - b Assets and infrastructure that Greater Wellington is responsible for within the hearing area
  - c Any other activities undertaken by Greater Wellington within the hearing area, which would potentially be affected by the proposed wāhi tapu conditions.
14. We have received the MACA hearings scheduled for 2024/2025 and the Kāpiti hearing is scheduled to commence in October 2024. We have already filed evidence for this hearing.

#### *Regional Policy Statement Change 1*

15. All hearings for the first change to the Regional Policy Statement (RPS Change 1) have now been completed, although officers’ right of reply for the final hearing stream and caucusing on the Indigenous Ecosystems are still ongoing. The panel will now prepare their report of recommendations to provide to council in June 2024, with council decision required in August.
16. There is a strong focus on identifying, promoting and supporting nature-based solutions. This was covered in the Climate Change hearing stream and links closely with the Indigenous Ecosystems provisions under consideration in Hearing Stream 6. The need to safeguard our environment and prevent deterioration is a consistent theme throughout, and working with our mana whenua partners and community forms a significant part of the non-regulatory methods.

#### *Partnering with Mana Whenua*

17. Greater Wellington continues to have discussions directly with our mana whenua partners kaimahi teams on partnering for delivery within the taiao space. With jobs for

Nature funding finishing in 2024 for most of these projects, Greater Wellington (and other partners) is looking at both short and long term opportunities to partner with mana whenua kaimahi teams for delivery through supplier contracts. Planting contracts for winter 2024 are currently being finalised as well as looking forward to provide more certainty over multiple years.

*Implications for Greater Wellington on the proposed changes in the first RMA Amendment Bill*

<b>Area of change</b>	<b>Current regulatory levers</b>	<b>Current practice at Greater Wellington</b>	<b>What happens if changes are legislated</b>
<p>Make it clear that, while the NPS-FM is being reviewed and replaced, resource consent applicants no longer need to demonstrate their proposed activities follow the Te Mana o te Wai hierarchy of obligations, as set out in the NPS-FM.</p>	<p>Te Mana o te Wai is reflected in our RPS Change 1</p> <p>We also have Freshwater aspiration statements for mana whenua in NRP PC1</p>	<p>Consent applicants need to demonstrate consideration of Te Mana o te Wai in their application.</p> <p>Consideration of Te Mana o te Wai will continue until regulations changed</p>	<p>National direction will make it clear that the hierarchy of Te Mana o te wai no longer applies when considering consent applications.</p> <p>Unclear as to the amount of ‘weight’ we can put on other statutory documents that have incorporated the hierarchy (eg RPS)</p>
<p>Amend stock exclusion regulations in relation to sloped land.</p>	<p>Regulated at both the regional (through the NRP) and national (stock exclusion regulations in the RMA).</p>	<p>We will continue to implement both the National Environment Standards (NES) and our NRP in relation to stock exclusion until the legislation is removed.</p> <p>Currently we do compliance and monitoring only through incident notifications. Our response also includes the advocacy and education non-regulatory work</p>	<p>We will revert to implementing the NRP if the regulations are completely repealed.</p> <p>If regulations are just amended, will review our approach to make sure both the new regulations and our regional plan are implemented.</p>

Area of change	Current regulatory levers	Current practice at Greater Wellington	What happens if changes are legislated
		with our Environment Restoration team.	
Repeal intensive winter grazing regulations.	<p>This was national regulation only.</p> <p>In the NRP we only regulate break feeding.</p>	<p>We are currently processing winter grazing consents (only 1 consent processed to date)</p> <p>We only monitor at dairy compliance visits if applicable, and if we receive a notification.</p>	<p>Will not pursue any more applications and will advise farmers not to apply if they ask.</p> <p>Will not actively monitor permitted activity sites either but will continue to respond to incidents if they come in.</p> <p>We will continue to implement the NRP rules on break feeding.</p>
Align the consenting pathway for coal mining with the pathway for other mining activities in the National Policy Statement for Indigenous Biodiversity (NPS-IB), NPS-FM, and the National Environmental Standards for Freshwater (NES-F).	<p>Effects management hierarchies in the NRP, NPS-IB and NPS-FM do not have any exclusions to the ‘avoid’ direction for coal mining.</p> <p>Applications for coal mining are subject to the ‘Avoid’ direction in effects management hierarchies.</p>	<p>Note: coal mining is an unlikely activity in the Wellington Region.</p> <p>NRP rules for activities within wetlands are more stringent than those in NES-FW.</p>	<p>Overrides NRP policy and provides a consenting pathway for coal mining; especially significant where the activity is “non-complying”.</p>
Suspend the NPS-IB requirement for councils to identify new Significant	The announcement refers only to ceasing identification of new SNAs.	Has been a RPS requirement for TAs to identify SNAs since 2013.	RMA s84 requires that local authorities must observe their own policy statements and

Area of change	Current regulatory levers	Current practice at Greater Wellington	What happens if changes are legislated
Natural Areas (SNAs) for three years.	<p>Both the RPS and NPS-IB contain direction for TAs to identify SNAs in the terrestrial environment.</p> <p>RPS Change 1 requires this to be complete by June 2025, and would prevail over the NPS-IB deadline which is by August 2028.</p>		<p>plans. Provisions, such as RMA s6, RPS policies 23, 24 and 47, and provisions in the NPS-IB must continue to be given effect when considering applications for resource consents, notices of requirement or when preparing plan changes or reviews.</p> <p>Greater Wellington recognises an understandable reluctance by TAs to embark on new proactive investment in the identification of new SNAs outside of these processes.</p>
Speed up the process to make or amend national direction, such as national policy statements and national environmental standards.	The current direction is reflected in our NRP and the RPS	We would still continue to implement the NRP and RPS, until any regulatory changes are made	The ability to change national direction faster creates uncertainty and unrest for regions and district councils.

***Te Awa Kairangi***

18. Acoustic monitoring in the Pakuratahi river corridor over summer recorded the presence of native short-tailed bats. Short-tailed bats have not been recorded in the Wellington Region in over seven years and were thought extinct in the lower North Island. The presence of this highly vulnerable species pays testament to the ongoing pest control undertaken by Greater Wellington.
19. NZ short-tailed bats are a ‘critically endangered’ highly mobile fauna and are the rarest mammal in NZ. This record will inform further monitoring to understand the size and spread of this population, conservation efforts and pest management strategies in the



wider area and has inspired collaborative work with both Department of Conservation (DOC) and highlighted the need to engage properly with local iwi to ensure better outcomes for this taonga species.

20. The Waiwhetū Walkover is a collaboration between Greater Wellington, Hutt City Council (HCC) and the Friends of Waiwhetū Stream. The purpose of the walkover is to discuss the stream management, restoration projects and flood management planning. As part of the walkover, the Friends of Waiwhetū Stream presented the results of almost seven years of citizen science studies. This includes benthic macroinvertebrate monitoring, fish monitoring and fish passage assessment, and inanga spawning habitat surveys.
21. The Friends of Waiwhetū monitor fish data twice per year, providing an amazing insight into the health of fish in the stream. This data is significantly more than what Greater Wellington collects but currently Greater Wellington does not use this data in any reporting. Greater Wellington is trialling a new citizen science tool that will allow groups like the Friends of Waiwhetū to share their data with Greater Wellington more easily.
22. The programme of maintenance work for 30 flood defence rock structures is currently 75% complete and due to be completed by the end of May. The environmental effects are being managed by an approved Site Specific Effects Monitoring Plan (SSEMP) which outlines conditions that need to be met and the required monitoring to be undertaken at each site.
23. The rock maintenance work communications plan has included onsite signage explaining what the work involves and why it is necessary. There has also been notices in the papers and social media campaign will begin in May 2024. So far there has been no negative comments or complaints from the community.
24. Greater Wellington has been supporting Upper Hutt City Council (UHCC) with their project to construct a cycleway access ramp up to the stopbank trail from McLeod Park. This will provide another access point for commuters and trail users and is due for completion by early June 2024. Greater Wellington has provided construction specifications that need to be met and amended the maintenance agreement between UHCC and Greater Wellington.
25. Contractors undertaking deer ground culling in the HCC area have completed their two stints for the year now, along with remote monitored trail cameras proving to be highly effective, if staff are able to respond to deer present at pre-planned control locations around the urban boundary. Night shooting continues to take up a large part of the work programme, with shooting for HCC, Flood protection and Recloaking Papatūānuku.
26. Greater Wellington has assisted HCC with advice relating to the implementation of their cat bylaws.
27. Greater Wellington has supported OSPRI with the organisation of the Remutaka aerial possum control operation covering large parts of Greater Wellington land. This is due to start in May.

### ***Te Awarua-o-Porirua***

28. The Greater Wellington, Ngāti Toa, Porirua City Council (PCC), Wellington City Council (WCC) and Wellington Water Limited (WWL) Project Team continue to progress the Te Whakaritenga/Te Awarua o Porirua Accord and documentation. The Accord will be presented to the partners ELTs in May for endorsement, with signing planned for mid-June.
29. Greater Wellington took Ngāti Toa on a tour of the Transmission Gully Project to show them some of the non-compliances that are being worked through in enforcement proceedings. We have a follow up meeting to discuss the site visit on 8 May 2024.
30. Planning has started to install a network of DOC250 traps along Transmission Gully from Paekākāriki to Battle Hill. We will work in with CPB HEB and the lizard protection work they are doing.
31. This summer the wetland SOE programme targeted wetlands across the Te Whanganui-a-Tara and Te Awarua-o-Porirua Whaitua. A number of wetlands around Te Awarua-o-Porirua and Taupō swamp were surveyed for fish, wetland birds, plants and soils. This season we recorded mātātā/ fernbird (at risk – declining) and Matuku / Australasian Bittern (threatened – nationally critical) in Taupō swamp for the first time in recent history. In addition to the population of pūweto/ spotless crane (at risk – declining) known already to inhabit the site, these additional rare wetland bird observations stress the value of this site as one of our most significant wetlands regionally and highlight the importance of the work of the volunteer organisations, Pest Free Plimmerton and Friends of Taupō swamp in caring for these special places.

### ***Porirua City Council District Plan***

32. Greater Wellington will attend mediation for PCC appeals from May onwards. Our attendance will be as a party to several appeals filed by other submitters.

### ***Wairarapa***

#### ***Wairarapa Coast***

33. Pest Animals have contracted out two regional predator control programme areas for possum control; Castlepoint and Stronvar, and control work has commenced.
34. Opuawe key native ecosystem traps are being expanded. These traps will extend further south along the coast. A pair of NZ breeding Dotterel were seen in December near White Rock, and the pair were then observed again in January with 2 young present.
35. Wairarapa Eastern Catchment Schemes. AG's have been held with all six eastern catchment schemes throughout April 2024. The Catchment Scheme Committees have all confirmed that the schemes have been maintained, this year's work programmes have been completed along with approving next year's annual works programme.

#### ***Ruamāhanga***

#### ***Biodiversity***

36. Greater Wellington assisted the Aorangi Restoration Trust with pekapeka (NZ native bat) monitoring in an area of the Aorangi Forest Park foothills and adjacent farmland around the Waihora KNE site. The monitoring devices successfully recorded long-tailed

bat activity at a number of sites with a large variation in interaction. This extends the known distribution of this threatened species into south Wairarapa.

#### *Pest Animals*

37. Greater Wellington responded to a potential wallaby sighting in the Tauherenikau vicinity, however, no wallabies or signs of wallabies were found.
38. Night shooting was undertaken in the Greater Wellington soil conservation reserve “Stoney Creek” targeting ungulates within the forest.
39. Regional pest control programme. Mauriceville is complete for the properties we have access to. The team are now into their last areas for this year's plan, with Tauweru and Blairlogie regional pest control programmes both on track to complete by mid-May.

#### *Predator Free Wellington*

40. The Pest Free Wellington (PFW) team hosted the Wairarapa Pūkaha to Kawaka Alliance GM, and the group leads for Predator Free Featherston and Predator Free Masterton. The purpose of the meeting was to form a connection between the projects in support of other Predator Free initiatives across the region. During the meeting, we shared project learnings particularly our learning regarding the establishment of the project and building to where we are now, which is the aspirations of these organisations. We also discussed the broader context of the national movement to assist these organisations in developing their strategies.

#### *Meridian Wind farm*

41. Meridian has proposed to construct, operate and maintain a wind farm located approximately 5km south of Eketahuna. The proposal comprises 20 wind turbines and ancillary works including earthworks, underground internal cable network, access roads between the turbines and from the site entrance, a new overhead transmission line to connect the wind farm to the national grid and an associated new terminal substation. The proposal also includes temporary concrete batching, temporary fuel storage, temporary aggregate crushing, a new meteorological mast and operation and maintenance/services building and construction laydown areas.
42. Officers have contributed to the joint section 87F report for this application. This is a joint process with Horizons Regional Council, Masterton District Council and Tararua District Council. Meridian (the Applicant) filed a notion with the Court for the Mt Munro application to proceed through direct referral to the Environment Court.

#### *Daleton Nursery Development*

43. The Daleton satellite poplar and willow nursery will be developed to provide soil conservation trees for the Region utilising the treated effluent from Carterton's municipal wastewater plant and providing employment opportunities for both the local hapu and the wider Carterton community.
44. Progress has been steady, with an irrigation supplier engaged and currently surveying the site and procuring materials for installation to occur over May/June. A closed tender is live for artificial shelter establishment with an estimated timeframe for completion of the works being mid-winter 2024. Planting and facilities will be tendered and

undertaken post winter 2024, anticipating project completion and handover to operational business as usual in June 2025.

45. Rangitāne o Wairarapa and Kahungunu ki Wairarapa have both endorsed the local hapu Ngati Kahukura Awhitia to be involved at the governance level. There is already a memorandum of understanding between the hapu, Carterton District Council (CDC), and Greater Wellington to work together to establish this nursery whilst also improving outcomes for the hapu. This endorsement is therefore crucial for the project's success.
46. A number of risks have been identified, namely working with treated wastewater, access into the site, and budget blowout due to the high rate of inflation experienced over the past 12 months. All of these risks are being actively managed by the project governance and are all considered to be rated moderate risk with the current controls and treatment in place.

#### *Akura Nursery poplar and willow pole harvest*

47. Greater Wellington's Akura Nursery establishes, grows, and harvests poplar and willow poles for space planting on farms to manage erosion through Wellington Region Erosion Control Initiative (WRECI). On average Akura can harvest approximately 25,000-30,000 poles per year. Unfortunately, Cyclone Gabrielle impacted the growth of poles, and a significant number were damaged, resulting in a 50% reduction in supply this season. Environment Restoration are prioritising their allocation based on catchment need across the region. (This applies to all catchments, Kapiti, Porirua, Te Whanganui a Tara and Wairarapa Coast).

#### *Ruamāhanga Automated Flood Warning System*

48. The Knowledge Water team have been working on an automated flood warning message distribution system. This will provide the various stakeholders within the Wairarapa region with information during a flood event. As trigger levels within the regions rain gauge and river monitoring network are activated, this information needs to be relayed.
49. The current situation is that the Water Resilience staff, Flood Warning Duty Officers (FWDO), will relay the same message to many people within the phone tree. This has worked well, however can get very busy when multiple trigger levels are reached in quick succession and phone trees distributors are uncontactable. This new system will enable mass calls all at once, ensuring critical messages will be distributed in a timely and efficient fashion.

#### *Kopuaranga*

50. Flood Operations Delivery has been focusing on completing the crack willow debris removal project from the Kopuaranga River from around the Mauriceville area. The work programme will continue until river and weather conditions permit. Any remaining blockages will be programmed for the following summer.

#### *Waipoua*

51. Old Man's Beard has been targeted in the Waipoua River urban reach and at the public campsite at Dakins Rd on the Ruamāhanga Riverbank.

#### *Waingawa*

52. The Masterton water supply pipeline located near the river berm in the upper reaches of the Waingawa River has been identified as an at-risk asset in the FMP. To reduce the risk to this asset, large river gravels have been placed against the riverbank to reduce the rate of erosion until a capital work project has been put in place to provide further protection.

*Mangatāre*

53. A resource consent application has been relodged for out of scheme erosion repairs. The erosion has increased the risk of flooding to parts of the Carterton township and Greater Wellington is working with the landowner and CDC to repair the erosion. There are some ongoing challenges with getting this resource consent approved and more work is currently underway, specifically working with members of Rangitāne on an appropriate solution to the erosion problem.

*Waiohine*

54. Erosion repairs, channel realignment and gravel extraction has been undertaken below the confluence of the Waiohine River with the Ruamāhanga River. This work has involved placing gravel material into a large erosion bay in preparation for planting a vegetative buffer, directing the river channel away from at risk riverbanks to prevent further major erosion, and removing excess gravel from the river channel to maintain flood water capacity.
55. Further environmental enhancement work on the Waiohine at Fullers bend has begun with the clearing of Willow and Polar tress and ground preparation. This location will be planted with eco sourced natives this winter.

*Ruamāhanga*

56. Channel realignment and gravel extraction has been completed in the Ruamāhanga above and below the Waihenga bridge near Martinborough. This work is in an attempt to reinstate the access track to a popular river beach used by the local community for recreation.
57. A stopbank realignment project in the Mahaki Basin area has been delayed until next summer due to the risk of ground conditions affecting the quality and cost of the project. Further mitigation work is currently being undertaken to reduce the risk of stopbank failure during a flood event.

*Tauanui and Turanganui*

58. A programme of work for the Pirinoa area in the Tauanui and Turanganui Rivers has been developed and is currently being consulted in with Mana Whenua. This work involves clearing debris and cutting back vegetation from the channels, and channel realignment to protect repaired erosion sites from previous flooding.

*Proposed Wairarapa Combined District Plan*

59. Greater Wellington has filed a further submission in response to submissions on the Proposed Wairarapa Combined District Plan. The submission responds supporting and opposing a wide range of submitters. Key areas of interest in the submission include natural hazards, flood mapping, indigenous biodiversity, sites and areas of significance to Māori, and subdivision.

## **Kāpiti**

### *Piharua habitat and Mangaone Stream*

60. Greater Wellington is exploring options to improve the flood resilience of Te Horo Road within the Mangaone Stream catchment, Kāpiti. Sediment removal is proposed to increase the channel capacity was presented as an initial solution. However, based on previous fish rescue experience associated with the construction of the Peka Peka to Ōtaki expressway, Ngā Hapū o Ōtaki expressed concern about the potential piharua (lamprey - *Geotria australis*) population present in the lower Mangaone Stream.
61. Piharua is one of the two threatened (Nationally Vulnerable) fish species within the Wellington region. Greater Wellington joined forces with Ngā Hapū o Ōtaki to conduct an exploratory electrofishing survey in the proposed areas of works within the Mangaone Stream.
62. The survey recorded 61 individuals in the proposed area of works. It is rare to find these kind of piharua numbers and combined with the historic records from the New Zealand Freshwater Fish Database it suggests that large proportion, if not all, of the Mangaone Stream catchment provide regionally significant habitat for this threatened species.
63. The Mangaone Stream itself is in a degraded state, however, the stream and all tributaries are included in schedule F1 (threatened or at-risk fish species habitat and migratory fish habitat) of the NRP. It would, nonetheless, be worth exploring if current NRP schedules are an efficient tool to protect regionally significant strongholds of threatened species. The survey has led to a re-evaluation on the flood protection options in the current area of interest (ongoing).

### *Pest Animals*

64. Greater Wellington's strategy to raise predator traps in Ōtaki to catch ferrets and not hedgehogs is proving successful. Eight ferrets were caught in the April service, and we have seen an 80% reduction in the number of hedgehogs being caught. Large pindone carrot rabbit operations are planned now the pasture is very burnt off and the soils are extremely dry. This provides ideal conditions for baiting to take place. Sites include Peka Peka expressway for NZTA, Transpower in Waikanae and various other private properties mainly on the Kapiti Coast.
65. Planning has started to install a network of DOC250 traps along Transmission Gully from Paekākāriki to Battle Hill. We will work in with CPB HEB and the Lizard protection work they are doing.
66. Night shooting continues to take up a large part of the work programme, with shooting encompassing work for KCDC, Flood protection and Recloaking Papatūānuku.
67. Over summer, Knowledge and Insights worked with Ngā Hapū o Ōtaki, Te Atiawa ke Whakarongotai and Ngāti Toa Rangatira to help fill some key data gaps for the Kāpiti Whaitua process. This has also helped iwi build capability and exercise kaitiakitanga. The field work and data collection were successfully completed. Greater Wellington will be auditing and analysing the data over the next month and summarising the results for feedback. We will be undertaking a debrief with everyone involved and evaluating the success of the project, particularly what we can learn about involving and collaborating with our iwi partners for future environmental monitoring.

***Te Whanganui-a-Tara***

68. Te Kopahou trapping work in conjunction with WCC and as part of the Regional Predator Control Programme is 80% completed. The first service of the new traps is underway on the Radome Track, with 168 possums from 23 traps recovered. This is a great result for a 6-week period.
69. Wellington City Council district plan - Officers are assessing potential appeals on the district plan provisions within the Intensification Planning Instrument (IPI). Appeal rights are limited to certain provisions within the IPI.
70. Hutt City Council designations - Work has begun to roll over and add new designations for the Hutt City Council district plan.
71. Construction of an offshore reef adjacent to the Te Ara Tupua cycleway and coastal protection works is underway, this is intended to create habitat in an otherwise barren area. There is an exclusion zone in place during the work and marker boys will show the ends of the reef once completed.
72. The summer boating season has drawn to an end. Just prior to the end of daylight savings our Rangers were at Seaview boat ramp before dawn to check for navigation lights. Several boats did not have the correct lights (some not any) and had to wait around 30-40 minutes for daylight before they could proceed out. One person decided to ignore the request to wait and launched at an alternate ramp, with no lights, still in the dark. We are working with Police regarding follow up actions.

***Morton Dam***

73. Heritage New Zealand Pouhere Taonga (HNZPT) manages the national Heritage List (Rārangī Kōrero) which they periodically add to. They notified a proposed Category B listing of Morton Dam in the Wainuiomata Water Collection Area in March. An officer submission offering minor corrections to the proposed listing, place names for example, and supporting the listing was submitted then withdrawn when it was discovered that Wellington Water was in the process of considering reinstating the dam to support drinking water supply.
74. Heritage New Zealand advised that the proposed listing remains on hold pending the outcome of WWL confirming the future intent of the dam for water supply purposes.
75. The officer submission included a suggestion of referencing the management plan for the water collections areas (Wainuiomata Orongorongo Water Collection Areas Management Plan) but was not explicit in highlighting that the purpose of the reserve involving a primary goal of providing water and a secondary goal of protecting heritage values. We also offered the opportunity for Greater Wellington officers to undertake preliminary reviews of future proposed listings before they are made public.
76. Greater Wellington officers are continuing to liaise with HNZPT on other parks heritage matters.

### *Predator Free Wellington*

77. Since completion of the first phase of the project the team have been responding to any incursions that have been detected in the eliminated spaces on the Miramar Peninsula. The community sighting system has been highly successful, which indicates that there remains high community collaboration, support, and pride in the achievements to date.
78. In the second phase of the operation (Phase 2) the team are active in 445 ha. Within that total figure there are:
  - a 280.2 ha in active elimination
  - b 164.8 ha eliminated, now monitoring for incursion.
79. Community members have been trained for the projects and elimination work is commencing through Mt Victoria. This is the next step in bringing in Wellington residents into our elimination team. A lot has been achieved with community input, and the team are now planning on how we can continue to expand these activities.
80. We are collaborating with the community to find and capture a stoat currently present on Miramar peninsula. Two mustelid detection dogs have been brought in to survey the stoat's habitat. So far, the stoat has illuded our traps. An expert is due to come and give an opinion on any other techniques we can try to capture the animal. Female stoats are almost always pregnant, however, from trail camera images we are confident that this is a male stoat which significantly reduces its threat.
81. New technologies are currently being assessed for trial in the project to make elimination operations more efficient, and ultimately, more affordable. We inform other projects, both regionally and nationally of their efficacy and suitability of these new technologies.

### *Natural Resources Plan Change 1*

82. Natural Resources Plan (NRP) change 1 implements the National Policy Statement for Freshwater Management (NPS-FM) and solidifies the regulatory recommendations from the Te Whanganui-a-Tara Whaitua and Te-Awarua-o-Porirua Implementation Programmes in a planning instrument, resulting in significant changes to the operative NRP. It has now been notified and the submission and further submission period has closed.
83. Over 270 submissions were received. Raw submissions can be found under the "Submissions" section of our NRP [Page 3](#). A summary of decisions requested by submitters and decisions requested by provision can be found on our website too. These are the summarised versions of individual submission. Full submission can be found under the Submissions section of the website.
84. Webinars and in-person meetings were held with key stakeholders during the submissions period to engage and communicate the detail of the NRP Plan Change 1. These engagements gathered a lot of interest and generated good discussion, though also highlighted the strength of opinion held by some towards NRP Plan Change 1. This is reflected in the large number of submissions received.

<sup>3</sup> [Greater Wellington — Proposed Change 1 to the Natural Resources Plan Submissions \(gw.govt.nz\)](https://www.gw.govt.nz/propose-change-1-to-the-natural-resources-plan-submissions)



85. Planning is now underway to confirm the hearings panel, which includes council nominees, mana whenua nominees and commissioners appointed by the Chief Freshwater Commissioner. Additionally, planning is also underway to confirm the best start date for the hearings, with available budget, commissioner availability and with wider context of updates to the NPS-FM all factors in this decision.

**Ngā āpitihanga**

**Attachment**

Number	Title
1	Action items from previous Environment Committee meetings

**Ngā kaiwaitohu**

**Signatory**

Approver	Lian Butcher – Kaiwhakahaere Matua Taiao   Group Manager, Environment
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<p style="text-align: center;"><b>He whakarāpopoto i ngā huritaonga Summary of considerations</b></p>
<p><b><i>Fit with Council’s roles or with Committee’s terms of reference</i></b></p> <p>The Environment Committee has responsibility to consider all matters across the development and implementation of the work programmes of Greater Wellington’s Environment Group.</p>
<p><b><i>Contribution to Annual Plan / Long Term Plan / Other key strategies and policies</i></b></p> <p>Development and implementation of related work programmes fall under the core activities of the 2021-2031 Long Term Plan.</p>
<p><b><i>Internal consultation</i></b></p> <p>Internal consultation was limited to officers of Greater Wellington’s Environment Group.</p>
<p><b><i>Risks and impacts - legal / health and safety etc.</i></b></p> <p>This report covers the full breadth of work programmes, and equally a broad range of environmental, reputational, legal, financial and health, safety and wellbeing risks and associated implications.</p>

**Attachment 1 to Report 24.210**

**Action items from previous Environment Committee meetings**

Date	Action item	Status and comment
23 November 2023	<p><b>Regulation of Wastewater Treatment Plants in the Wellington Region – Report 23.594</b> [For Information]</p> <p><b>Noted:</b> The Committee requested a report to a future meeting regarding the history and future of urban development as it relates to wastewater.</p>	<p><b>Status:</b> Completed</p> <p><b>Comment:</b> We have already gone to Committee on this. Please refer to report 23.594</p>
23 November 2023	<p><b>Te Rōpū Taiao – Environment Group Update – Report 23.8</b> [For Information]</p> <p><b>Noted:</b> The Committee requested: A report to a future meeting regarding consents that have been met in relation to Transmission Gully.</p>	<p><b>Status:</b> Completed</p> <p><b>Comment:</b> We have informed the Chair of the Environment Committee that while we have active enforcement proceedings ongoing, that we won't be able to provide this sort of update. Once the enforcement proceedings have been filed, we can provide an update to the Committee.</p>
27 February 2024	<p><b>Response to Recent Government Environmental Announcements – Report 24.69</b> [For Information]</p> <p><b>Noted:</b> The Committee requested that the implications of the signalled legislation changes for fast-track consenting be added to the risk register.</p>	<p><b>Status:</b> Completed</p> <p><b>Comment:</b> Tracked and reported through to ELT as part of “impact of reforms” uncertainty statement.</p>

**Attachment 1 to Report 24.210**

**Action items from previous Environment Committee meetings**

<p>27 February 2024</p>	<p><b>Enviroschools Update – Report 24.53</b> [For Information]</p> <p><b>Noted:</b> The Committee requested further information about how much funding Greater Wellington is providing to the Enviroschools programme, for consideration as part of the Long Term Plan.</p>	<p><b>Status:</b> Completed</p> <p><b>Comment:</b></p> <ol style="list-style-type: none"> <li>1. The current level of GW funding provided to Enviroschools is: <ul style="list-style-type: none"> <li>• \$81,730 paid to Toimata Foundation</li> <li>• Plus staff – Team Leader (1FTE), Advisor (0.75FTE) Senior Advisor (0.25FTE)</li> <li>• Office equipment and space for 8 facilitators</li> </ul> </li> <li>2. For Council consideration of the LTP, there is additional resource within the public consultation that increases the staffing the Enviroschools team.</li> </ol>
<p>27 February 2024</p>	<p><b>Flood Forecasting and Flood Monitoring Network Improvements Programme – Report 24.80</b> [For Information]</p> <p><b>Noted:</b> The Committee requested:</p> <ul style="list-style-type: none"> <li>• that staff develop advice on monitoring the risk that Greater Wellington staff may be subject to legal liability where the public relies on Greater Wellington’s weather and flood warnings.</li> <li>• That if a risk is identified, this is referred to the Finance, Risk and Assurance Committee for further consideration.</li> </ul>	<p><b>Status:</b> in progress</p> <p><b>Comment:</b> K&amp;I are working with Legal to provide advice – aiming to close before the June 2024 Environment Committee meeting.</p>