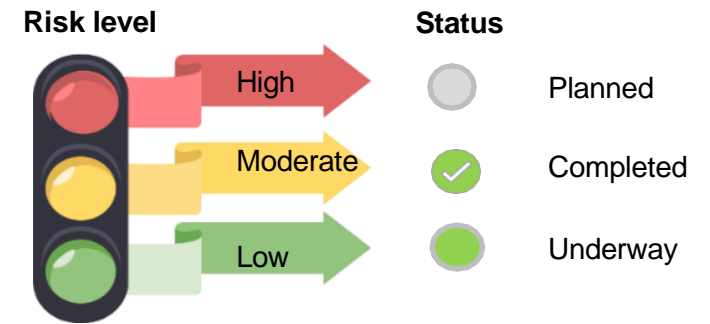







**Attachment 2: Legislative compliance breaches 1 October 2023 – 31 December 2023**






Non-compliance description	Group	Type	Date Received	Corrective Action	Risk Level	Status
<b>New matters</b>						
An elected member posted an email between member of the public and elected members to their social media feed without that individual's consent.	People and Partnerships	Privacy	Q4 2324	<b>Q2 2324</b> Staff informed the member of the breach of the Privacy Act. The relevant post was updated so that it no longer included personal information. Elected member advised of obligations under the Privacy Act.	Low	Completed ✓
Local Government Official Information and meetings Act 1987 statutory timeframes not met.	People and Partnerships	LGOIMA	Q2 2324	<b>Q2 2324</b> There was one instance where we did not meet the statutory timeframes in the LGOIMA Act. The reason was that the request was not received by the Legal Support Services and Official Information Team in a timely manner. Once received (day 20), the request was responded to within 9 working days. Ongoing training is being provided to staff.	Low	Completed ✓
The council's Building Consent Authority failed to grant all of the approved building consents and issue code compliance certificates within the statutory 20-day timeframe as set out in the NZ Building Act 2004. Approximately 6% of building consents granted within the period were granted outside the 20-day timeframe. Approximately 2% of code compliance certificates were issued outside of the 20-day timeframe during this period.	Regulatory Services	Building Consents	Q2 2324	<b>Q2 2324</b> Steps have been taken to mitigate this via extra training for officers as well as appointment of additional contractors to supplement in house resources.	Low	Completed ✓

Non-compliance description	Group	Type	Date Received	Corrective Action	Risk Level	<u>Status</u>
<b>New matters</b>						
<p>The Resource Consents team was unable to process some applications within the 20 day timeframe as prescribed within the RMA. This time frame was exceeded largely due to;</p> <ol style="list-style-type: none"> <li>1. Historically older applications coming off hold at a time when District Plan Change 2 came into effect requiring further analysis.</li> <li>2. The team having to manage a high vacancy rate for Resource Consents Planners and Development Engineers.</li> </ol>	Regulatory Services	Resource consents	Q2 2324	<p><b>Q2 2324</b> Action was undertaken to recruit with vacancies being advertised however the unit has been unable to fill the positions and contractors are being used in the interim.</p>	Low	<p><u>Completed</u></p> <div style="text-align: center;">  </div>

Non-compliance description	Group	Type	Date Received	Corrective Action	Risk Level	Status
<b>Previously reported matters</b>						
Given we have volumetric water charges, we do not fully comply with the Local Government (Rating) Act 2002 that requires the Council to fully assess each property's total rates for the rating year.	Corporate Services	Rating	2014	<b>Q4 2223</b> Compliance not possible given we have volumetric water charges.	Low	Ongoing 
Likely non-compliance with respect to the Council's "Water devices loan" scheme and the requirements under the "Credit Contracts and Consumer Finance Act" (CCCFA). Legal advice obtained that the scheme likely amounts to a 'consumer credit contract' triggering responsible lending and disclosure requirements under the CCCFA. Significant work would be required by staff to comply with these requirements (which are not well suited to a local government context) and would have ongoing resourcing implications.	Corporate Services	Loan	Q1 2324	<b>Q1 2324</b> We have recently engaged Simpson Grierson to review the current scheme offered and to assess whether our terms are compliant with the CCCFA legislation. <b>Q2 2324</b> Council has taken interim measures to discontinue the water device loan scheme including amending information on the Council website and pausing the loan scheme (customers can purchase the devices outright). Further consideration required by the relevant team and in-house legal on whether Council will take steps to comply with CCCFA requirements.	Low	Completed 

Non-compliance description	Group	Type	Date Received	Corrective Action	Risk Level	<u>Status</u>
<b>Previously reported matters</b>						
Staff not following the "one-up" authorisation process as noted in the "General Expense" corporate policy.	Corporate Services	Unauthorised Expenditure	Q1 2324	<p><b>Q1 2324</b> Where possible, the EPOs have been reopened and reauthorised by the appropriate budget manager. Other non-compliance examples are due to timing and the nature of purchases made, which are generally of a low value nature. There is ongoing work with the business units to remind them of the recently updated General Expense policy and the need for compliance (re Internal controls) and also offering training as and when required.</p> <p><b>Q2 2324</b> Auditor EY is satisfied we now comply.</p>	Low	<p><u>Completed</u></p> 
Compliance with discharge conditions in the resource consent for the Otaihanga Landfill remains difficult and is managed through a Leachate Management Plan in collaboration with GWRC and our annual monitoring reports. There was an incident during stormwater works at the landfill where an unexpected discharge from the landfill was released into the leachate drain.	Infrastructure Services	Resource Consents	Q4 2223	<p><b>Q4 2223</b> Greater Wellington Regional Council (GWRC) has been notified by the Waste Projects Manager and additional samples have been taken and discussed. It is managed through existing compliance discussions with the monitoring officer for GWRC. It has not been categorised as a non-compliance by GWRC, but a final report is to be submitted once all of the additional test results are back.</p> <p><b>Q1 2324</b> The final report has been commissioned to be submitted late October.</p> <p><b>Q2 2324</b> The landfill leachate incident is now complete. No further action is required, report submitted to GWRC.</p>	Low	<p><u>Completed</u></p> 

Non-compliance description	Group	Type	Date Received	Corrective Action	Risk Level	<u>Status</u>
<b>Previously reported matters</b>						
<p>Council has an ongoing breach of its resource consent for Otaki Wastewater Treatment Plant (WGN160002) due to elevated diagnostic reference levels(DRL) of dissolved reactive phosphorous (DRP). The Council has exceeded this limit since monitoring commenced in 2017, and GWRC first recorded this non-compliance in the 2019 compliance report. GWRC issued a warning letter on 30 November 2022 and the Council has engaged consultants to investigate the issue. An investigation was not undertaken in 2019 as Council's consultants were negotiating with GWRC to exceed the trigger level for DRP in the consent, and staff changes and shortages at the time prevented further actions being undertaken. The purpose of the investigation undertaken was to identify options for ongoing compliance within the limits.</p>	Infrastructure Services	Resource Consents	Ongoing – initially raised in 2019	<p><b>Q4 2223</b> Investigation underway after scope of investigation was approved by both Iwi and GWRC.</p> <p><b>Q1 2324</b> Investigation complete and recommendations are being implemented to reduce DRP. We've received the final investigation report from Stantec and will submit this to GWRC. We have agreed on several recommendations that will be implemented, including further planting on the Land District Treatment Area (LDTA) and lining the aeration pond. These measures are anticipated to reduce DRP in the groundwater.</p> <p><b>Q2 2324</b> Investigation completed, shared the reports, and have received the approval from GWRC and Nga Hapu Otaki for the implementation of remedial measures. Identified improvement programmes include the upgrade of LDTA, Planting in and around LDTA, installation of a DAF unit, upgrade of the aeration system and lining of the aeration lagoon. Application for resource consent is underway for LDTA upgrade. Upgrade of Aeration System, lining of the Lagoon and installation of DAF can only be possible on completion of the upgrade of inlet work currently in progress. All identified improvement programme expected to be finished</p>	Low	<p><u>Completed</u></p> 

Non-compliance description	Group	Type	Date Received	Corrective Action	Risk Level	Status
<b>Previously reported matters</b>						
				by mid-2024. This non-compliance is now deemed as closed.		
Historical procurement breach relates to Takutai Kāpiti and previous procurement undertaken by staff. Three pieces of work with two providers appear to have no contracts in place, or procurement paperwork.	Strategy and Growth	Takutai Kāpiti	Q1 2324	<p><b>Q1 2324</b> Breach identified in this Q1 of 2023/24. Staff are not yet clear if this is because it has not been filed and the person has left, or if it just is not in place. Staff are taking action to document the issue.</p> <p><b>Q2 2324</b> Staff have reviewed archived and available documents to confirm status of procurement in question. Subsequent issues will be shared with the procurement and audit/risk teams. Where appropriate, necessary procurement documentation for work currently in-track will be introduced.</p>	Low	Underway 
Under section 35(2AA) of the RMA: Every local authority must, at intervals of not more than 5 years, compile and make available to the public a review of the results of its monitoring under subsection (2)(b). If the five-year interval starts when the District Plan provisions were made operative, then for most of the plan there will not need to be a s35(2AA) review made public until 2026. However, the coastal hazard provisions were withdrawn in 2014, following which a suite of litigation ensued, and a suite of provisions from the 1999 Operative District Plan have continued to apply since	Strategy and Growth	District Plan	Q4 2223	<p><b>Q4 2223</b> To address the suggested non-compliance, Council is currently scoping a section 35 review of those provisions.</p> <p><b>Q1 2324</b> Update: Technically we have not met requirements around updating the operative district plans chapters on coastal hazards. This is required every 10 years. Due to previous litigation on this matter, and an agreement to undertake community engagement work via Takutai Kapiti which will not finish until May 2024, we will not complete the district plan change until 2025/26. Our district is not alone in having complication with this work. The community disagrees with</p>	Low	Underway 

Non-compliance description	Group	Type	Date Received	Corrective Action	Risk Level	<u>Status</u>
<b>Previously reported matters</b>						
<p>that time. Accordingly, it could be determined that these provisions are overdue for s35 review. This issue is not a surprise for Council, who are aware of the issue and work programme underway through Takutai Kāpiti.</p>				<p>guidance provided by the Ministry for the Environment on coastal hazard identification. In October, we have written to the Ministry for the Environment and Department of Conservation about these issues and asked them to clarify expectations for local authorities. <b>Q2 2324</b> Responses received from MfE and DOC provided useful clarification, and have been made available on the Council website. Takutai Kapiti continues to make significant progress towards a final set of recommendations, including recommendations intended to inform Council's approach to a future coastal plan change, which will be received by Council at a meeting in June 2024. The Section 35 review will be completed in 2024 in time to incorporate any necessary changes into the coastal plan change, which will be publicly notified in mid 2025.</p>		