

**From:** [Morgan Fitzgerald](#)  
**To:** [Olivia Burge](#)  
**Cc:** [Natalia Ford](#); [Henrietta Ansell](#)  
**Subject:** RE: Wetland fauna guide  
**Date:** Tuesday, 9 April 2024 1:37:00 pm

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Kia ora Olivia,

Thanks for sending this through, and apologies for such a delay in response. There were a couple of threads we had to follow to get back to you on this with a thoughtful and thorough response.

As an FYI, an EDM is going out to Councils today regarding this case. We're keen to hear from Councils to see how we can work through the implications of it, as we recognise there are implications. I'm going to forward the emails we've received directly to the wetlands email for the team to consider as the work continues to unfold.

I've included the EDM email below, for your fyi with inquiries you're receiving around it. If you're also hearing feedback you think is helpful, we'd be keen to hear as well if that's comfortable for you to share.

Let me know if you have any pātai. EDM below:

*Kia ora,*

*The Ministry for the Environment (MfE) has recently received enquiries regarding the court proceedings Page v GWRC and how it impacts Council work. Firstly, ngā mihi nui for the queries we've received thus far.*

*One of the key takeouts of the case relates to the burden of proof required to support a criminal prosecution. While the [MfE delineation protocols](#) are a useful tool reflecting best practice internationally, they are unlikely to be enough in a prosecution action. The Courts judgement implies that where a council may be looking to take criminal charges, an assessment and identification of fauna may be required to prove beyond a reasonable doubt that a wetland exists.*

*We are keen to work through the implications of this with councils as issues arise. Please feel that you can keep us informed of any ongoing impacts of the recent court decision in your work by sending us an email at: [wetlandsteam@mfe.govt.nz](mailto:wetlandsteam@mfe.govt.nz). We look forward to confirming next steps with you.*

*Ngā mihi nui,  
Sara Clarke  
General Manager, Systems Enablement*

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**From:** Olivia Burge <BurgeO@landcareresearch.co.nz>  
**Sent:** Friday, March 22, 2024 1:37 PM  
**To:** Morgan Fitzgerald <Morgan.Fitzgerald@mfe.govt.nz>  
**Cc:** Natalia Ford <Natalia.Ford@mfe.govt.nz>; Henrietta Ansell <Henrietta.Ansell@mfe.govt.nz>  
**Subject:** FW: Wetland fauna guide

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Another one - I will reply to his specific Qs though.

Happy Friday/have great weekends

Olivia

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**From:** Darin Sutherland <[Darin.Sutherland@es.govt.nz](mailto:Darin.Sutherland@es.govt.nz)>

**Date:** Friday, 22 March 2024 at 1:30 PM

**To:** Olivia Burge <[BurgeO@landcareresearch.co.nz](mailto:BurgeO@landcareresearch.co.nz)>

**Subject:** Wetland fauna guide

You don't often get email from [darin.sutherland@es.govt.nz](mailto:darin.sutherland@es.govt.nz). [Learn why this is important](#)

Hi Olivia,

Not sure if you are the right person to approach but following on from the GWRC vs Page court ruling where wetland fauna surveys were indicated as being required to prove the existence of a wetland there seems to be a need for a standardised wetland fauna methodology. I can only see this working with macroinvertebrates, probably soil, as everything else would be seem too unreliable, though happy to be proven wrong.

In some ways this looks like something MfE should produce, but with the current government perhaps an envirolink bid may be the most appropriate course of action (personally I'd amend the RMA to say plants and/or animals but that may never happen).

Would you have any idea:

Would landcare be capable of producing a wetland fauna methodology?

How much would it cost, I'm thinking it would be a large exercise, but I can't see any harm in asking

How long do you think it would take?

Kind Regards,

Darin

### Darin Sutherland

Environmental Scientist - Wetlands

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