

Lucia Olivero __ Final Essay 2025

**Protecting Kororā in Wellington:
Evaluating the Wildlife Act and resource management reforms
in safeguarding urban biodiversity.**



Word count: 3801

TABLE OF CONTENTS

INTRODUCTION	3
2. KORORĀ IN THE URBAN CONTEXT: THREATS AND FAILURES	4
2.1 Dog attacks show that law-based protection is insufficient	4
2.2 Infrastructure Projects Have Little Consideration for Kororā	4
2.3 Nest boxes work—but only with full support.....	5
3. LEGISLATIVE ANALYSIS: THE LIMITS OF THE WILDLIFE ACT	5
3.1 The Wildlife Act 1953 – Protection in theory, not in practice	5
3.2 Local frameworks: Dog Control Act 1996 and Wellington Animal Bylaw 2024.....	6
3.3 Related legislation and limits of preventive capacity	6
3.4 Consequences of non-compliance and systemic gaps	7
4. THE ROLE OF URBAN PLANNING IN BIODIVERSITY LOSS	7
4.1 Resource Management Act 1991 (RMA)	7
4.2 Wellington Proposed District Plan (PDP)	8
4.3 New Zealand Coastal Policy Statement (NZCPS 2010).....	8
4.4 Practical outcomes	9
5. FAST-TRACK REFORMS: UNDERMINING ENVIRONMENTAL PROTECTIONS.....	9
5.1 Overview of the Fast-Track Approvals Bill (2024–2025)	9
5.2 Critical perspectives.....	10
5.3 Potential implications for Wellington’s coastal ecosystems	10
6. INTERNATIONAL COMPARISON: LESSONS FROM AUSTRALIA.....	11
6.1 St Kilda (Victoria).....	11
6.2 Phillip Island (Victoria).....	11
6.3 Penguin Island (Western Australia).....	12
6.4 Synthesis for Wellington	12
7. WHAT KIND OF LEGAL REFORM IS NEEDED	13
7.1 Core priorities	13
7.2 Strengthening enforcement	14
7.3 Governance and participation	14
8. CONCLUSION.....	14

INTRODUCTION

Little penguins (*kororā*) are among the few marine animals living in urban coastal environments in Aotearoa New Zealand and thus provide an important case to examine how or whether biodiversity is considered in urban planning. In Wellington, there are several documented instances of preventable impacts on *kororā*, including dog attacks, deaths from construction and infrastructure activities, and disturbances to the breeding colony, which raise questions about the adequacy of management under our existing laws, as well as how urban planning can identify and respond to potential impacts on biodiversity¹.

While *kororā* are protected in name, there is weak enforceability of the law, lack of mechanisms to prevent biodiversity harms, and potential unintended consequences of biodiversity safeguards, which are applied inconsistently in urban development.² The repeal of the Natural and Built Environment Act and the introduction of the Fast-track Approvals Bill increase risks and weaken environmental checks, as infrastructure is fast-tracked.³

This paper addresses the legal protection that *kororā* have under the Wildlife Act, but evidence of limited enforcement, fragmented biodiversity legislation, and the challenges associated with the fast-tracking of infrastructure projects mean that Aotearoa New Zealand's current planning and legal frameworks fail to ensure meaningful protection for *kororā* in practice.⁴ There is a clear argument for a binding and enforceable legal obligation to integrate biodiversity protection, ensuring that local councils, developers, and infrastructure agencies are accountable within the urban planning process.⁵

¹ Department of Conservation (2024). *Kororā protection and incidents report, December 2023–July 2024*. Wellington: Department of Conservation. Available at: <https://www.doc.govt.nz/news/media-releases/2024-media-releases/doc-frustrated-by-completely-avoidable-dog-attacks-on-penguins/>

Radio New Zealand (2024). *Three little penguins killed near Wellington–Petone coastal pathway construction*. RNZ News, 15 May 2024. Available at: <https://www.rnz.co.nz/news/national/517648/three-little-blue-penguins-found-dead-near-construction-site-of-wellington-cycleway>

1News (2024). *Four penguins dead in new transport works spark biodiversity concerns*. TVNZ 1News, 12 June 2024. Available at: <https://www.1news.co.nz/2024/06/12/four-penguins-dead-in-new-transport-works-spark-biodiversity-concerns/>

² Environmental Defence Society (2024). *Submission on the Fast-track Approvals Bill*. Auckland: Environmental Defence Society. Available at: <https://eds.org.nz/wp-content/uploads/2024/04/EDS-Submission-Fast-Track-Approvals-Bill-Final.pdf>

New Zealand Ecological Society (2024). *Open letter to the Coalition government from scientific societies regarding environmental legislative agenda*. 14 March 2024. Available at: <https://newzealandecology.org/sites/default/files/NZES%20press%20release%20-%20open%20letter%20to%20NZ%20govt%20regarding%20environmental%20legislative%20agenda%2014%20March%202024.pdf>

³ Ministry for the Environment (2024). *Fast-track Approvals Bill and project list 2024–2025*. Available at: <https://environment.govt.nz/news/government-announces-listed-projects/>

⁴ Wildlife Act 1953. *Public Act 1953 No. 31*. Wellington: New Zealand Government. Available at: <https://www.legislation.govt.nz/act/public/1953/0031/latest/whole.html>

Dog Control Act 1996. *Public Act 1996 No. 13*. Available at: <https://www.legislation.govt.nz/act/public/1996/0013/latest/whole.html>

⁵ Greater Wellington Regional Council (2024). *Regional Policy Statement for the Wellington Region – Updated July 2024*. Wellington: GWRC. See Appendix 7 (“Coastal Environment” objectives 7.2 and “Indigenous Ecosystems and Biodiversity” objectives 7.6). Available at: <https://www.gw.govt.nz/document/23035/regional-policy-statement-2013-updated-july-2024/>

The analysis begins with an overview of current threats, legal gaps, planning mechanisms, and potential reforms to improve biodiversity outcomes. A comparison with penguin protection measures in Australia will also be included. The analysis ends by outlining the key reforms necessary to enhance biodiversity outcomes in urban settings.

2. KORORĀ IN THE URBAN CONTEXT: THREATS AND FAILURES

Although there are formal provisions under the *Wildlife Act*, recent incidents in Wellington have shown that kororā are highly vulnerable to human-related threats.

2.1 Dog attacks show that law-based protection is insufficient

The Department of Conservation (DOC) recorded eight confirmed *kororā* deaths and seven additional injuries caused by dogs between December 2023 and July 2024 along the Wellington coast, which DOC described as “entirely preventable.”⁶ DOC attributed these threats to human inaction and insufficient enforcement of local bylaws. The *Dog Control Act 1996* places the legal obligation of controlling dogs on pet owners (s 5; s 20).

However, dog owners often disregard these laws, and penalties for violations are uncommon. The Wellington City Council’s Dog Policy 2024 reiterated leash requirements, but recurring dog attacks showed that enforcement remains reactive rather than preventive.⁷

2.2 Infrastructure Projects Have Little Consideration for Kororā

The tension between urban development and ensuring biodiversity protection is particularly apparent in the presence of large-scale infrastructure projects. In 2024, several dead *kororā* were observed along the coastal pathway development (*Te Ara Tupua*) between Wellington and Petone. Media articles and related outlets confirmed that one *kororā* was killed by construction machinery on site, which caused community concern over environmental management and biodiversity protection.⁸

In early 2025, Wellington’s coastal transport projects remained under public scrutiny as conservation groups continued to raise concerns over kororā safety. Local authorities reported new habitat measures and extended monitoring along construction areas, signalling that anxiety over environmental management had not subsided.⁹

⁶ Department of Conservation (2024). *Kororā protection and incidents report, December 2023–July 2024*. Available at: <https://www.doc.govt.nz/news/media-releases/2024-media-releases/doc-frustrated-by-completely-avoidable-dog-attacks-on-penguins/>

⁷ Wellington City Council (2024). *Dog Policy 2024 and Animal Bylaw 2024*. Available at: <https://wellington.govt.nz/rules-and-permits/bylaws/animal-bylaw-and-dog-policy>

⁸ 1News 27 July 2024. “Penguin deaths prompt new protection measures on capital project.” Available at: <https://www.1news.co.nz/2024/07/27/penguin-deaths-prompt-new-protection-measures-on-capital-project/>

⁹ Wellington City Council (2025). *Kororā: new habitats along the waterfront*. Press release, 15 May 2025. Available at: <https://wellington.govt.nz/news-and-events/news-and-information/our-wellington/2025/05/new-habitats-along-the-waterfront-for-korora>.

While environmental management plans are generally required under the *Resource Management Act*, they often lack clear biodiversity monitoring and enforcement mechanisms.¹⁰ Basic measures such as temporary fencing, trained ecological monitors, and time restrictions during breeding seasons were often absent or applied inconsistently and ineffectively.

2.3 Nest boxes work—but only with full support

Along the Wellington coastline, programmes such as *Places for Penguins* and Wellington City Council restoration have installed over 100 monitored nest boxes for *kororā* breeding. These initiatives have demonstrated success, with volunteers counting 179 fledged chicks in monitored areas of the inner harbour during the 2024–2025 season.¹¹ Long-term monitoring (2014–2023) data suggest that approximately 70% of eggs fledged with an average of 1.32 chicks per clutch.¹² This rate represents high reproductive success for *kororā* when boxes are well-placed, vegetated, and predator control is present.¹³

This success, however, rests on sustained monitoring and clear technical standards—neither of which are currently enforced or required. A nest box can be poorly placed with little shelter or shade, or within reach of dogs, resulting in abandonment or overheating.¹⁴ Moreover, financial transparency is limited: neither the Wellington City Council nor collaborating groups publicly disclose the costs of nest box installation or maintenance, which makes it hard to assess cost-effectiveness or scale. These inconsistencies show that volunteer initiatives, while valuable, cannot substitute for systemic legal and planning frameworks.¹⁵

3. LEGISLATIVE ANALYSIS: THE LIMITS OF THE WILDLIFE ACT

3.1 The Wildlife Act 1953 – Protection in theory, not in practice

The *Wildlife Act 1953* provides absolute protection for native species, including *kororā*, listed under Schedule 7 as “absolutely protected wildlife.” The Act prohibits killing, injuring, capturing, or disturbing wildlife or their nests without lawful authority (ss 63–70).¹⁶ While this establishes a strong legal foundation in theory, its effectiveness in practice is undermined by limited enforcement capacity. The Department of Conservation (DOC), the principal

¹⁰ Resource Management Act 1991. *Public Act 1991 No. 69*. Wellington: New Zealand Government.

¹¹ Forest & Bird. *Places for Penguins – Wellington* (project overview: nest boxes, monitoring, stewardship model). Available at: <https://www.forestandbird.org.nz/projects/places-penguins-wellington>

¹² Wellington City Council. 2025. *Kororā: new habitats along the waterfront* (habitat works & nesting provisions continuing in 2025). Available at: <https://wellington.govt.nz/news-and-events/news-and-information/our-wellington/2025/05/new-habitats-along-the-waterfront-for-korora>.

¹³ New Zealand Birds Online (2025). *Kororā – little penguin (Eudyptula minor)*. Te Papa / Department of Conservation / OSNZ. Available at: <https://www.nzbirdsonline.org.nz/species/little-penguin>

¹⁴ West Coast Penguin Trust (2025). *Annual Report 2024-25 Summary*. Greymouth: West Coast Penguin Trust. Available at: <https://www.westcoastpenguintrust.org.nz/wp-content/uploads/2025/09/2024-25-WCPT-Summary-Annual-Report-r.pdf>

¹⁵ Office of the Auditor-General. 2012. *Prioritising and partnering to manage biodiversity* (Overview). Available at: <https://oag.parliament.nz/2012/biodiversity>; Department of Conservation. 2020. *Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020*, p. 38. Available at: <https://www.doc.govt.nz/globalassets/documents/conservation/biodiversity/anzbs-2020.pdf>.

¹⁶ Wildlife Act 1953, ss 63–70.

enforcement agency, operates under significant resourcing constraints and prioritises large-scale conservation projects, leaving limited scope for proactive monitoring in urban areas.¹⁷

In addition, the *Wildlife Act* was drafted in an era when wildlife was assumed to inhabit remote or “natural” areas rather than urban or peri-urban environments. This rural bias limits its applicability to coastal cities like Wellington, where kororā must coexist with dense human activity and infrastructure. The law focuses on punishment after harm rather than on preventive or adaptive protection measures.¹⁸ Its lack of integration with other statutory planning mechanisms, such as the *Resource Management Act 1991* and local district plans, further weakens its influence on urban biodiversity governance.¹⁹

3.2 Local frameworks: Dog Control Act 1996 and Wellington Animal Bylaw 2024

The way local councils frame and enforce protective legislation is critical to kororā protection at a local level. The *Dog Control Act 1996* places legislative responsibility for controlling dogs on dog owners and provides councils with the opportunity to create restricted areas, enforce leash laws and impose infringement notices for non-compliance (ss 5, 10, 20, 57). In Wellington, these provisions are operationalised through the Animal Bylaw 2024 and Dog Policy 2024 which establish restricted coastal zones, and seasonal protection for wildlife.

However, enforcement is implemented inconsistently. Even with these frameworks in place, several kororā deaths in 2023–2024 exposed that although bylaws exist, enforcement was rarely applied to prevent these deaths.²⁰ Local councils have discretion in enforcement, and limited resourcing reduces their capacity to monitor dog behaviour on coastal land.²¹ Furthermore, even preventive tools, such as dog-avoidance training programmes, had limited preventive impact due to their voluntary participation and low public uptake.²² Instead, a fractured system of governance—where DOC and local authorities coexist—results in confusing, overlapping and poorly coordinated responsibilities for kororā.

3.3 Related legislation and limits of preventive capacity

Beyond these specific instruments, other environmental statutes indirectly touch on wildlife protection but fail to prevent urban threats. The *Conservation Act 1987* gives DOC responsibility for managing conservation lands, yet most kororā colonies along Wellington’s coast occur outside DOC-administered reserves.²³ The *Reserves Act 1977* supports biodiversity

¹⁷ Department of Conservation. 2023. *Annual Report 2022/23*, p. 12 (“What we do”). Available at: <https://www.doc.govt.nz/globalassets/documents/about-doc/annual-reports/annual-report-2023/annual-report-2023-english.pdf>.

¹⁸ *Wildlife Act 1953*, ss 63–70 (offences framework). Available at: <https://www.legislation.govt.nz/act/public/1953/0031/latest/whole.html>.

¹⁹ Ministry for the Environment (2023). *Biodiversity integration in planning systems: Review of legal instruments*. Wellington: MFE.

²⁰ Wellington City Council. 8 Jul 2024. *Little blue penguins live – and die – on our coastline* (kororā protection notice). Available at: <https://wellington.govt.nz/news-and-events/news-and-information/our-wellington/2024/07/penguin-protection>.

²¹ Greater Wellington Regional Council (2024). *Regional Biodiversity Strategy Implementation Update*.

²² Wellington City Council (2025). *Dog-Avoidance Education Pilot Evaluation Report*. Wellington: WCC.

²³ Conservation Act 1987. *Public Act 1987 No. 65*. Wellington: New Zealand Government.

conservation in public reserves but is not tailored to address marine species or private land interactions.²⁴ The *Local Government Act 2002* enables councils to make bylaws but does not impose explicit biodiversity duties.²⁵ Finally, although the *Resource Management Act 1991* governs land use and environmental effects, its coordination with the *Wildlife Act* is weak and non-binding.²⁶

3.4 Consequences of non-compliance and systemic gaps

While both the *Wildlife Act* and *Dog Control Act* include sanctions, prosecutions are uncommon, and penalties are too low to deter offending conduct. Enforcement is triggered by individual complaints rather than by systematic monitoring or proactive inspections within communities. The Department of Conservation and local authorities work independently—often with no coordination at all—leading to confusion over who is responsible for enforcement.

There are currently no formal and consistent monitoring systems in place—for example, dog-tracking databases, ecological wardens or seasonal patrols—and compliance activities rely largely on public incident reporting.²⁷ The inability of enforcement agencies to coordinate or share information is indicative of a broader governance challenge: that biodiversity management is not part of the urban planning system, nor is it scheduled for ongoing monitoring. Overall, environmental governance remains reactive.

4. THE ROLE OF URBAN PLANNING IN BIODIVERSITY LOSS

Urban planning in Aotearoa New Zealand is supposed to protect biodiversity through the duties assigned to regional and local authorities. In reality, though, there's a clear gap between what national policy expects and what happens on the ground. For species like kororā, this disconnect means protection often depends more on circumstance than on law. The planning system recognises biodiversity as part of sustainable management, but it stops short of showing how that should work in everyday urban practice.

4.1 Resource Management Act 1991 (RMA)

The Resource Management Act (RMA) 1991 provides the overarching framework for managing natural and physical resources. Its purpose under section 5 is “*to promote the sustainable management of natural and physical resources,*” including safeguarding the *life-supporting capacity* of ecosystems.²⁸ Section 6(c) identifies “*the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*” as a matter of national importance, while section 7(d) requires decision-makers to give particular regard to

²⁴ Reserves Act 1977. *Public Act 1977 No. 66*. Wellington: New Zealand Government.

²⁵ Local Government Act 2002. *Public Act 2002 No. 84*. Sections 10(1) and 145. Available at: <https://www.legislation.govt.nz/act/public/2002/0084/latest/whole.html>.

²⁶ Resource Management Act 1991. *Public Act 1991 No. 69*. Wellington: New Zealand Government.

²⁷ Predator Free Wellington (2024). *Monitoring and surveillance tools for urban wildlife protection*. Wellington: PFW.

²⁸ Resource Management Act 1991, s 5.

“the intrinsic values of ecosystems.”²⁹ Sections 30 and 31 assign responsibilities to regional and territorial authorities to maintain indigenous biological diversity.³⁰

In theory, these provisions establish a comprehensive legal basis for protecting kororā habitats under the category of significant indigenous fauna. However, their language is broad and discretionary, allowing councils to interpret obligations variably. “There is no statutory mechanism that links RMA consents with Wildlife Act enforcement. This weak integration means biodiversity is often considered only after effects occur.”³¹

4.2 Wellington Proposed District Plan (PDP)

At the local level, Wellington City’s Proposed District Plan (PDP) seeks to operationalise the RMA’s biodiversity duties through the Ecosystems and Indigenous Biodiversity (ECO) chapter. The plan’s objectives—ECO-O1 and ECO-O13—aim to maintain biodiversity and protect significant natural areas (SNAs) from inappropriate development.³² Key policies, including ECO-P1, ECO-P3, ECO-P5, and ECO-P56, establish a hierarchy of avoidance, mitigation, and compensation for adverse effects and require that SNAs within the coastal environment align with Policy 11 of the New Zealand Coastal Policy Statement (NZCPS).³³

While this framework theoretically extends protection to kororā colonies along the Wellington coastline, its effectiveness depends on whether those areas have been formally identified and mapped as SNAs. The plan does not explicitly reference kororā or other urban wildlife, leaving coastal biodiversity management dependent on indirect mechanisms.³⁴ Moreover, implementation relies heavily on developer compliance and minimal council oversight. Thus, the PDP mirrors the national pattern of weak operational capacity.

4.3 New Zealand Coastal Policy Statement (NZCPS 2010)

The NZCPS provides national direction for the management of New Zealand’s coastal environment under the RMA. Its Policy 11 explicitly requires avoiding adverse effects on indigenous biodiversity, particularly for threatened or at-risk species such as kororā.³⁵ Regional and district plans must “give effect to” the NZCPS, granting it binding legal status within local planning frameworks.³⁶ In principle, this means that any coastal activity or infrastructure project affecting kororā habitats must demonstrate avoidance or adequate mitigation of harm.

²⁹ Resource Management Act 1991, ss 6(c), 7(d).

³⁰ Resource Management Act 1991, ss 30–31.

³¹ Department of Conservation (2024). *Kororā Protection Report 2023–2024*. Wellington: DOC.

³² Wellington City Council (2024). *Proposed District Plan: Chapter ECO – Ecosystems and Indigenous Biodiversity*. Available at: <https://wellington.govt.nz/-/media/your-council/plans-policies-and-bylaws/district-plan/proposed-district-plan/files/hearing-stream-6-11/hs-6-11/report-11/ihp-report-11-appendix-11ecosystems-and-indigenous-biodiversity-chapter.pdf>

³³ Wellington City Council (2024). *Proposed District Plan, Coastal Environment Policies*. Wellington: WCC.

³⁴ New Zealand Ecological Society (2024). *Statement on Urban Biodiversity Integration*. Christchurch: NZES.

³⁵ Department of Conservation (2010). *New Zealand Coastal Policy Statement 2010*. Wellington: DOC.

³⁶ Resource Management Act 1991, s 55.

In practice, the NZCPS has not been applied evenly across the country. Many councils tend to read Policy 11 too narrowly, limiting its focus to formally mapped ecological zones instead of the wider urban–coastal areas where kororā actually nest. Monitoring and enforcement are still limited, and in most cases biodiversity goals come second to transport or economic priorities.

4.4 Practical outcomes

Wellington offers a clear example of how this gap plays out. Even though local planning documents use strong environmental language, they have not managed to stop biodiversity loss. Projects like Te Ara Tupua, the waterfront upgrades, and the transport works in Lower Hutt show how environmental considerations often fade into the background once construction begins.³⁷

Responsibility is also scattered. The Department of Conservation manages biodiversity, Greater Wellington Regional Council handles regional planning, and Wellington City Council oversees local consents and enforcement. With each agency working within its own limits, no one ends up fully accountable for kororā protection in the city. The result is a patchwork system where good intentions exist on paper, but coordination and follow-through remain weak. Although legislative tools exist, they lack operational force.

5. FAST-TRACK REFORMS: UNDERMINING ENVIRONMENTAL PROTECTIONS

5.1 Overview of the Fast-Track Approvals Bill (2024–2025)

In 2024, the New Zealand Government introduced the *Fast-Track Approvals Bill* to expedite projects considered to have “regional or national significance.”³⁸ The Bill amalgamates multiple statutory approval processes into a single decision-making framework, effectively sidestepping key provisions of the *Resource Management Act 1991*, the *Wildlife Act 1953*, and related conservation statutes.³⁹

Under the proposed legislation, Ministers have the discretion to approve a project and refer a project to expert panels directly, substantially undermining local authorities and public engagement.⁴⁰ As of October 2024, 149 projects were listed by the Ministry for the Environment as eligible under the fast-track process, including several infrastructure projects along Wellington’s harbour.⁴¹ While the stated intent is to remove ‘regulatory barriers’ for

³⁷ Radio New Zealand 23 May 2024. *Three little blue penguins found dead near construction site of Wellington cycleway* (one killed by construction machinery). Available at: <https://www.rnz.co.nz/news/national/517648/three-little-blue-penguins-found-dead-near-construction-site-of-wellington-cycleway>.

³⁸ Ministry for the Environment (2024). *Fast-Track Approvals Bill – Explanatory Note*. Wellington: MfE.

³⁹ Fast-Track Approvals Bill 2024, Part 2, cl 7–10.

⁴⁰ Ministry for the Environment (2024). *Fast-Track Approvals Process Overview*. Available at: <https://environment.govt.nz/news/government-announces-listed-projects>

⁴¹ Ministry for the Environment (2024). *List of Proposed Fast-Track Projects (October 2024)*. Wellington: MfE.

investment and job creation, the process nonetheless eliminates critical environmental safeguards within the broader context of RMA reforms.⁴²

5.2 Critical perspectives

Scientific and legal commentators have expressed major concerns regarding the environmental implications of the Bill. According to the New Zealand Ecological Society, fast-tracking could cause “*serious and often permanent impacts on biodiversity*” due to the absence of cumulative-effects assessments and ecological peer review.⁴³ Meanwhile, the Environmental Defence Society (EDS) described the Bill as a “*regression in environmental governance*,” citing the loss of statutory checks and balances, diminished public scrutiny, and the erosion of biodiversity protections that were partially advanced under the repealed Natural and Built Environment Act 2023.⁴⁴

Both organisations highlight that fast-tracking undermines the precautionary approach that has historically guided New Zealand’s environmental law. Under the new system, projects may proceed without detailed wildlife surveys or mitigation plans, placing vulnerable coastal and marine species at greater risk. This shift represents a fundamental re-orientation of the planning system—from one grounded in environmental assessment to one prioritising economic expediency.

5.3 Potential implications for Wellington’s coastal ecosystems

The consequences of the *Fast-Track Approvals Bill* are especially concerning for urban biodiversity in Wellington, where *kororā* nesting areas coexist with ongoing transport and infrastructure projects. Fast-tracked coastal works along the harbour could bypass habitat assessment requirements, reducing opportunities for the Department of Conservation and community groups to provide input. This not only heightens the risk of direct disturbance to nesting sites but also weakens accountability for post-construction monitoring.⁴⁵

Moreover, the reduced transparency and limited public participation undermine local stewardship efforts that have proved effective through initiatives such as *Places for Penguins* and the Wellington City Council’s restoration programmes.⁴⁶ Without the obligation to prepare comprehensive environmental management plans, future fast-tracked projects could erase the incremental progress achieved through these community-based efforts.

In this context, the *Fast-Track Approvals Bill* exemplifies a broader policy trajectory that privileges economic acceleration over environmental protection. It risks entrenching a model

⁴² Department of Conservation (2024). *Statement on the Implications of Fast-Track Legislation for Protected Wildlife*. Wellington: DOC.

⁴³ New Zealand Ecological Society (2024). *Submission on the Fast-Track Approvals Bill*. Christchurch: NZES.

⁴⁴ Environmental Defence Society (EDS). 7 Mar 2024. *Media release: The government’s war on nature goes up a gear with Fast-track Bill*. Available at: <https://eds.org.nz/resources/documents/media-releases/2024/fast-track-bill/>; Environmental Defence Society (EDS). 25 Aug 2024. *EDS responds to changes to Fast-track bill*. Available at: <https://eds.org.nz/resources/documents/media-releases/2024/eds-responds-to-changes-to-fast-track-bill>

⁴⁵ 1News (2025). “Concerns Over Penguin Safety During Transport Works.” TVNZ News, 7 February 2025.

⁴⁶ Wellington City Council (2024). *Restoration and Biodiversity Programme Report 2024–25*. Wellington: WCC.

where biodiversity safeguards are treated as optional rather than integral to urban and regional planning.⁴⁷

6. INTERNATIONAL COMPARISON: LESSONS FROM AUSTRALIA

The protection of *Eudyptula minor* (little penguins) in Australia offers useful precedents for understanding how legal frameworks, design standards, and community engagement can combine to achieve biodiversity outcomes within urban and coastal contexts. In contrast with Aotearoa New Zealand—where fragmented enforcement and weak coordination persist—Australian cases demonstrate that long-term conservation success depends on integrating ecological science, spatial design, and statutory clarity.⁴⁸

6.1 St Kilda (Victoria)

The St Kilda colony in Melbourne represents a rare case of urban–wildlife coexistence within a redeveloped waterfront setting.⁴⁹ Management led by *Parks Victoria* and the *Earth care St Kilda* volunteer programme has created a spatially defined protection model where elevated boardwalks and viewing decks separate visitors from penguin burrows, eliminating direct disturbance.⁵⁰ During the breeding season, the pier is closed at night and patrolled by volunteer wardens to control light exposure and restrict access. As a result, the colony has remained relatively stable at approximately 1,300–1,400 individuals since 2018, even with high visitor numbers.⁵¹ The St Kilda example illustrates the value of clear zoning, volunteer stewardship, and spatial design integration as mechanisms for biodiversity protection in urban waterfronts.⁵²

6.2 Phillip Island (Victoria)

On Phillip Island, conservation has become part of everyday management rather than a special project. The area is protected under the Nature Parks Act 1996 and the Crown Land (Reserves) Act 1978, which means ecological care and visitor control are part of how the place is run.⁵³ Each breeding season, data from monitoring help to adjust things — where burrows are placed, how much shade or ventilation they need, and what’s working or not. The results are steady:

⁴⁷ Environmental Defence Society (2024). *Submission on the Fast-Track Approvals Bill*. Auckland: EDS.

⁴⁸ Department of Climate Change, Energy, the Environment and Water (Australia) (2024). *National Recovery Plan for the Little Penguin (Eudyptula minor)*. Canberra: Australian Government. Available at: [Annual Climate Change Statement 2024](#)

⁴⁹ Parks Victoria (2023). *St Kilda Pier Redevelopment Project: Environmental Management Framework*. Melbourne: Parks Victoria. Available at: <https://www.parliament.vic.gov.au/4961da/globalassets/taled-paper-documents/taled-paper-8638/parks-victoria-annual-report-2023-24.pdf>

⁵⁰ Earth care St Kilda (2024). *Volunteer Penguin Guide Handbook*. Melbourne. Available at: <https://earthcarestkilda.org.au/wp-content/uploads/2021/10/Penguin-Guide-Handbook.pdf>

⁵¹ Parks Victoria (2024). *Annual Penguin Population Monitoring Report 2023–24*. Melbourne. Available at: <https://www.parliament.vic.gov.au/4961da/globalassets/taled-paper-documents/taled-paper-8638/parks-victoria-annual-report-2023-24.pdf>

⁵² Melbourne City Council (2020). *Coastal Strategy 2020–2030*. Melbourne. Available at: https://www.marineandcoasts.vic.gov.au/_data/assets/pdf_file/0027/456534/Marine-and-Coastal-Policy_Full.pdf

⁵³ Victorian Government (1996). *Nature Parks Act 1996 (VIC)*. Melbourne: Victorian Government Printer. Available at: https://content.legislation.vic.gov.au/sites/default/files/5ac9e3ed-bb75-37cc-b516-e2e8053237d4_75-8702aa172%20authorised.pdf

about 1.09 fledglings per pair in the 2024–2025 season.⁵⁴ What really makes it work is the consistency — long-term funding, technical guidance, and public education that doesn't disappear when budgets change. Phillip Island shows that when science, design, and governance are actually aligned, conservation stops depending on luck and starts depending on structure.⁵⁵

6.3 Penguin Island (Western Australia)

In contrast, Penguin Island near Perth reflects the limits of conservation strategies that rely primarily on land-based measures. Despite being part of the *Shoalwater Islands Marine Park*, the local *Eudyptula minor* population has declined by over 90% since 2007.⁵⁶ The reasons overlap — warmer seas, collisions with boats, and unregulated tourism — but the real problem is the gap between land and sea management. Protection stops at the shoreline.⁵⁷ Without climate adaptation or proper marine coordination, even good local efforts fall apart. The collapse of this colony is a warning that ecosystems can't be managed in pieces; they only work when the whole system is cared for together.⁵⁸

6.4 Synthesis for Wellington

Lessons from these Australian cases hold significant relevance for Wellington's coastal and urban management context.⁵⁹ Regulating visitor access, adopting consistent technical standards, and integrating adaptive monitoring would all strengthen local practice.⁶⁰ Finally, and most critically, Wellington must recognise the interdependence of marine and terrestrial ecosystems, aligning planning instruments such as the Proposed District Plan and Regional Coastal Plan to manage biodiversity as a single continuum.⁶¹ Collectively, these measures suggest that success in protecting kororā depends less on species-specific legislation and more on embedding biodiversity objectives across spatial design, community governance, and statutory integration.⁶²

⁵⁴ Phillip Island Nature Parks (2025). *Penguin Monitoring Data Summary 2024–25 Season*. Phillip Island.

⁵⁵ Tourism Research Australia (2024). "Phillip Island Nature Parks: Visitor Management Outcomes." *Tourism Research Bulletin*, Issue 16, pp. 12–15.

⁵⁶ Western Australia Department of Biodiversity, Conservation and Attractions (DBCA) (2024). *Shoalwater Islands Marine Park Management Update*. Perth. Available to download the PDF at: <https://www.dbca.wa.gov.au/management/plans/shoalwater-islands-marine-park>

⁵⁷ Cannell, B., Dunlop, J. & Clarke, R. (2023). "Population decline of Little Penguins on Penguin Island, WA." *Marine Ornithology*, 51(2), pp. 97–105.

⁵⁸ CSIRO (2024–2025). *Marine Heatwaves and Coastal Biodiversity Risk Report*. Canberra. Available at: <https://www.csiro.au/en/news/All/Articles/2025/August/Marine-heatwave-planning>

⁵⁹ Wellington City Council (2024). *Coastal Biodiversity and Visitor Management Discussion Paper*. Wellington.

⁶⁰ Department of Conservation (2024). *Kororā Monitoring Guidelines: Pilot Programme for Community Reporting*. Wellington.

⁶¹ Greater Wellington Regional Council (2024). *Regional Coastal Plan Review – Draft Policy Directions*. Wellington.

⁶² Environmental Defence Society (2024). *Submission on Fast-track Approvals Bill 2024*. Auckland.

7. WHAT KIND OF LEGAL REFORM IS NEEDED

Urban biodiversity protection in Aotearoa New Zealand remains fragmented between legislative domains and local implementation. While kororā are symbolically protected, the persistence of enforcement failures, habitat neglect, and reactive governance signals that biodiversity protection is not embedded as a legal or planning obligation. A coherent framework must therefore integrate legal enforceability, technical standards, and participatory governance into the planning system.

7.1 Core priorities

The first priority is to make biodiversity protection a binding legal obligation in all urban planning and consent processes. Under the current system, biodiversity considerations are often discretionary, depending on the interpretation of decision-makers or the capacity of councils. Embedding biodiversity as a non-negotiable statutory duty would ensure that ecological impacts are addressed at the same level as economic or infrastructural factors. This could include amendments to the RMA or its successor legislation, explicitly requiring urban consents to assess and mitigate effects on indigenous fauna such as kororā.⁶³

Second, technical standards should be established and made mandatory. Evidence from Wellington and Australia demonstrates that the success of restoration or nest-box initiatives depends on design quality, shading, ventilation, and predator control.⁶⁴ A clear regulatory framework prescribing these standards would reduce inconsistencies between volunteer-led and council-led initiatives. Similarly, habitat buffer requirements—for example, defined distances between active construction and breeding sites—should be included in regional coastal plans.⁶⁵

Finally, effective reform must recognise the ecological continuum between land and sea. Evidence from Western Australia shows that protection confined to terrestrial zones fails without corresponding marine coordination. Future frameworks should ensure that coastal and marine ecosystems are managed as an integrated whole.⁶⁶

Third, all projects affecting urban ecosystems should include active monitoring and public reporting.⁶⁷ Regular disclosure of monitoring results could be a condition of consent, ensuring that biodiversity outcomes are measurable and accessible to the public.

⁶³ Resource Management Act 1991, ss 5–7, 30–31.

⁶⁴ Phillip Island Nature Parks (2024). *Annual Penguin Breeding Report 2024/25*.

⁶⁵ Greater Wellington Regional Council (2024). *Regional Coastal Plan – Coastal Biodiversity Chapter*.

⁶⁶ The Guardian. 17 May 2024. *WA's Penguin Island little penguins at risk of vanishing as colony reduced to ~120 birds (~92% since 2007)*. Available at: <https://www.theguardian.com/environment/article/2024/may/17/wa-penguin-island-little-penguins-risk-of-vanishing-as-colony-reduced-to-120-birds>

⁶⁷ Department of Conservation (2024). *Urban Biodiversity Monitoring Framework*.

7.2 Strengthening enforcement

Reform must also focus on enforcement capacity. New provisions should mandate minimum inspection frequencies for high-risk areas—particularly coastal reserves and infrastructure zones—and introduce stronger penalties, including the possibility of mandatory prosecutions for repeated offences.⁶⁸

Coordination between agencies is another gap (see Section 4.4). A statutory mechanism for inter-agency coordination—shared enforcement databases and joint investigation protocols—would address duplication and communication failures.⁶⁹

Finally, community reporting and citizen monitoring could expand enforcement reach. Formal partnerships with local groups such as *Places for Penguins* or *Predator Free Wellington* could be established under memorandum-of-understanding frameworks, granting them a recognised role in local biodiversity monitoring.⁷⁰

7.3 Governance and participation

Legal reform must also strengthen governance transparency and public involvement. Projects near sensitive habitats should require public consultation and iwi/hapū engagement before consent is granted.⁷¹ This aligns with the principles of Te Tiriti o Waitangi and reflects obligations of active protection and partnership.⁷²

Transparency is equally crucial. Public access to biodiversity data, enforcement actions, and funding allocations should be guaranteed under LGOIMA mechanisms.⁷³ Consistent publication of ecological monitoring results would promote trust and accountability, addressing the perception that biodiversity enforcement occurs behind closed doors.

Lastly, Māori stewardship must be embedded in co-management structures. Recognising kaitiakitanga not as a symbolic principle but as a governance function would allow iwi and hapū to actively shape monitoring, restoration, and enforcement strategies, ensuring that urban ecological management integrates both scientific and cultural perspectives.⁷⁴

8. CONCLUSION

The story of kororā in Wellington shows that having legal protection does not necessarily mean being safe. Across different laws and policies — from the Wildlife Act to local bylaws and the fast-track reforms — the same pattern repeats: the rules exist, but they rarely work when they

⁶⁸ Department of Conservation (2025). *Compliance and Enforcement Strategy 2025–2030*.

⁶⁹ Greater Wellington Regional Council & DOC (2024). *Joint Biodiversity Operations Protocol*.

⁷⁰ Predator Free Wellington (2024). *Community Monitoring Programme Annual Summary*.

⁷¹ Ministry for the Environment (2023). *National Policy Statement on Indigenous Biodiversity (Final Draft)*.

⁷² Waitangi Tribunal (2011). *Ko Aotearoa Tēnei – The Report on the Wai 262 Claim*.

⁷³ Office of the Auditor-General (2023). *Public Accountability and Transparency in Local Government*.

⁷⁴ Harmsworth, G. & Awatere, S. (2013). “Indigenous Māori Knowledge and Perspectives of Ecosystems.” *Ecological Applications*, 23(5), 967–981.

are most needed. What these failures expose is not a lack of good intentions, but a system where biodiversity is treated as optional, something to be considered after harm has already occurred. The persistence of preventable deaths and inconsistent management reveals a deeper governance issue — one where planning and biodiversity protection are still disconnected from each other.

Examples from Australia, especially in Victoria, show that progress is possible when design, monitoring, and regulation are treated as part of everyday planning, not as exceptions.⁷⁵ “For Aotearoa, the key challenge is not only enforcing the principles it already claims to uphold, but also creating stronger linkages and substantive duties that embed biodiversity within urban law and planning. Laws and planning frameworks must move beyond symbolic protection and turn biodiversity protection into a practical, measurable duty — one that is transparent and shared with local communities and kaitiaki.

Kororā are more than a species in danger; they reflect how we value coexistence in our cities. If Wellington, a city proud of its ‘green’ identity, cannot protect penguins nesting at its doorstep, then it raises questions about sustainability. Protecting kororā is not only about saving a species — it is about proving that urban growth and care for life can, and should, exist together.⁷⁶

⁷⁵ Parks Victoria (2024). *St Kilda Pier Redevelopment – Environmental Management Plan*.

⁷⁶ Harmsworth, G., Awatere, S. & Rolleston, S. (2024). “Kaitiakitanga and Urban Planning: Indigenous Pathways for Resilient Cities.” *Planning Quarterly*, 237, 12–18.