

Wellington NRP PC1 - Hearing Stream 3

Speaking Notes: Marcella Freeman, Wellington City Council.

1. My name is Marcella Freeman, and I am a Planning Advisor for Wellington City Council. I have provided planning evidence on behalf of Wellington City Council.
2. I have read the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing my evidence and will continue to comply with it while giving oral evidence before the Hearings Panel today.
3. I addressed two key matters in my evidence which are interrelated:
 - a. Minor Sediment Discharge Provisions (WH.R23A and P.R22A of the NRP).
 - b. Duplication with Wellington City District Plan Provisions (WH.R23, WH.R23A, P.R22 and P.R22A of the NRP).
4. A further related matter arose from the officer rebuttal:
 - a. Conflict between WH.R23(d) and WH.R23A(h).

Minor Sediment Discharge Provisions

5. I will take my evidence as read and stand by my original position that it is impossible to ensure no sediment will leave a site or enter a waterbody even with the implementation of sediment control measures. Rainfall is a clear example of when this will occur, despite best intentions.
6. I agree with some of the changes that the reporting officer has recommended through the s42A report and their rebuttal.
7. Rebuttal evidence acknowledges that keeping WH.R23A (d) was an oversight and was removed in that version of the chapter.
8. I encourage the panel to accept that recommendation.

Duplication with District Plan Provisions

9. The Wellington City District Plan permits earthworks up to 250m² without requiring erosion and sediment control measures.
10. The Wellington City earthwork provisions work to recognise the benefits of urban development by enabling low-risk activities, avoiding unnecessary regulation. As well as ensuring efficient use of monitoring resources and aligning with central

Government direction to support small-scale residential development. Such as upcoming 'granny flats' provisions.

11. Wellington City Council's submission on WH.R23, WH.R23A, P.R22 and P.R22A sought amendments to only require erosion and sediment control measures where earthworks exceed 250m². A position I supported in my evidence.
12. Making this amendment to the NRP would align the approaches of the two planning documents and support achieving the benefits enabled in Wellington City's district plan.
13. In her rebuttal, Ms Vivian disagrees with my position and considers that earthworks under 250m² should still have controls in place and that there is no duplication across planning documents. I can understand that the view can be reached that there is no duplication between the district plan and regional plan for this activity given that the regional plan requires sediment mitigation measures while the district plan does not. Perhaps the issue in the City Council's submission be better characterised as challenging what it considered to be a level of unworkable and unnecessary regulation.
14. I agree that sediment discharge can have negative environmental outcomes on freshwater bodies, but these depend on the scale of that discharge and the receiving environment it ends up in.
15. For small-scale earthworks, such as those under 250m², I consider that requiring sediment mitigation measures to be problematic for the same reasons that they were not required in the Wellington City District Plan.
16. If discharge does occur from minor earthworks it will result in a comparatively low level of effect. For small scale earthworks I consider this to be an acceptable environmental effect, especially compared to other sources of contamination such as cross connections between storm and wastewater pipes and wastewater leakage.
17. The level at which the regulation is set needs to be considered alongside other outcomes both the regional council and territorial authorities are required to achieve. Such as requirements under the NPS-UD and MDRS like urban development, enablement of housing and the creation of well-functioning urban environments.

18. Small-scale, low-risk earthworks in Wellington's urban environment are more appropriately managed by TAs through their district plans. It is highly likely that people doing small scale earthworks permitted in a District Plan will not be aware or even consider that they require compliance with recommended NRP rule. WCC does not provide advice, and it is not its place to give direction to the community on regional rules. I question what steps the Regional Council will take to educate the public on the proposed permitted activity requirements if they are confirmed in this form.
19. The broad application of sediment mitigation measures makes the NRP overly burdensome. Under the proposed NRP, any activity beyond what is excluded in the earthworks definition requires sediment mitigation requirements to be installed at cost to communities with limited benefit. The exclusions in the definition to date for common urban development activities which do not require mitigation measures are very limited to digging holes for fence posts and gardening. There are many other activities which have similar level of effect that have not identified as an exception to the definition which could have a comparatively similar effect. These include activities such as digging holes for deck posts, letter boxes, fire pits, regrading a patio area, or levelling ground for a shed, garage or greenhouse.
20. I am not suggesting that they be added and recognise that the City Council submission does not provide scope to do that, but instead identify that they are other potentially deserving exceptions for which a balance of protecting freshwater and enabling urban development needs to be found. Thus, the benefit of introducing a minimum size threshold to provide a clearer, more consistent approach and avoid unintentionally capturing minor, low-risk earthworks.
21. The broad application of the rule to small-scale earthworks raises concerns about enforceability and monitoring capacity to ensure the requirements of the permitted activity rule are met.

Conflict between WH.R23(d) and WH.R23A(h).

22. As a result of the reporting officers rebuttal amendments there appears to be a conflict between WH.R23(d) and WH.R23A(h).
23. The conflict being WH.R23 (imposing a 3000m² cap) and WH.R23A (permitting unspecified scale of road resealing).

24. The current wording leaves it open to two interpretations:
- a. A road resealing over 3000m² is still permitted (under WH.R23A), or
 - b. It breaches the general size limit (and therefore requires resource consent WH.R23(d)).
25. This requires clarification. I am unsure why network utility operators are addressed in rule WH.R23 at all, rather than just under rule WH-R23A.
26. I suggest that network utility operators are removed from rule WH.R23 and instead are addressed solely under rule WH-R23A.
27. Conclusion.
28. Provisions for minor sediment discharge need to strike a balance, recognising environmental risks, but also what is practical, cost effective, reasonable and able to be monitored.
29. The present approach means that applicants may be required meet requirements and obtain consents from both GWRC and WCC, creating duplicated effort, added cost, and confusion, especially for straightforward, small-scale projects.
30. For ease of understanding I also recommend tidying up of the conflict between WH.R23(d) and WH.R23A(h), as well as WH.R23A and P.R22A.