




Oral submission
to the
Independent
Hearings Panel

Stream 1

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A woman wearing a grey raincoat, a wide-brimmed hat, and gloves is smiling as she pushes a blue wheelbarrow filled with dark soil through a field of tall, dry grass. The background shows a fence line and more vegetation under an overcast sky.

The quality of regulation is
judged by how it works in the
real world for real people



Our family's journey

- Our 4 ha on the Mangaroa Peatland was to be a slice of rural paradise – but turned into a nightmare.
- GWRC weaponised regulatory and legal procedure against landowners on the Peatland by:
 - Taking us to court over imaginary wetlands.
 - Trying to get the Mangaroa Peatland designated as a Significant Natural Area – while we were all still in court.
 - Telling the freshwater whaitua that the Peatland should be flooded to gain carbon storage benefits (without consulting the people whose homes and land would be rendered uninhabitable).

And now here we are again...

Three key points

- The hierarchy of planning instruments under the RMA matters.
- The definition of “nature-based solutions” distorts the concept. Together with Policy CC.12, it is likely to create an unreasonable regulatory burden.
- The thresholds for “protect”, “restoration”, and “buffer zones” are not clear and create a risk of law-making by fiat (officers making it up as they go).



1. Hierarchy matters...

- The RMA planning system cascades planning instruments from national to local levels to create vertical consistency in the rules.
- The RPS is restricted to matters within Part 2 and s 30 of RMA.
- RPS PC1 seeks to modify a national statement made under Part 5, subpart 1 (NPS-UD). That disrupts the vertical alignment and ignores GWRC's obligation under s 30(ba).



1. Hierarchy matters (2)...

- RPS PC1 also seeks to regulate climate change, which is better done at a national level. Regional approaches will:
 - Create uncertainty and probably a race to leave the region for businesses, creating hardship and reducing the ratings base.
 - Create a race to the bottom amongst regional regulators competing for businesses (to increase their ratings base).
 - Result in GWRC over-reliance on enforcement to compel compliance – expensive, and damaging to goodwill.
- Will regional rules really make a difference to climate change?

Unlikely: consistent national approach is needed.



I suggest the Panel...

- Narrow the scope of the RPS by putting the climate change provisions on hold until government has issued national-level policy.
- Adopt the drafting suggestions made by Upper Hutt City Council with regard to NPS-UD.



2. Nature-based solutions...

Nature-based solutions are deliberate solutions intentionally designed to work with nature to protect, enhance, or create a natural feature to achieve positive outcomes for climate adaptation or mitigation.

e.g. planting forest to stabilize erosion-prone slopes

- PC1 definition misunderstands basic features of nature-based solutions.
- Expands the internationally-accepted concept to protecting what nature has simply provided.
- Will create unclear conditions for when an activity has effects on a nature-based solution.
- Policy CC.12 muddles accounting for effects of an activity on climate change/biodiversity with encouraging non-engineered solutions.
- Expanded definition plus Policy CC.12 = councils have too much power to define and determine what is a nature-based solution, with insufficient clarity up front.

Opens the door to planning, consenting and enforcement officers making up the rules as they go. Creates risks of arbitrariness, unfairness, and unlawful decision-making.



I suggest the Panel...

Amend the definition of nature-based solutions:

- To reflect that nature-based solutions are human solutions that use and work with nature and are distinct from the ecosystem services provided by nature, and distinct from the adaptation needs of species themselves.
- Remove the current examples from the definition. Nature-based solutions should be determined on a case-by-case basis as new activities.

If the Panel retains examples, remove “peatland as a carbon store”.

Make the definition and Policy CC.12 explicitly prospective only (or redraft to exclude the possibility of retrospective inclusion).

Reframe Policy CC.12 to separate out the consideration of adverse effects (to be regulated through resource consents) from nature-based solutions (to be reframed as an enabling provision).

Add a method directing GWRC to develop guidance on nature-based solutions through consultation with the community.

Add a method directing GWRC to narrow the information asymmetries between individuals and councils.



3. Thresholds in critical definitions...

- “Protect”, “restoration” and “buffer zones” create important thresholds for regulatory action.
- Open-ended definitions in PC1 create the prospect of rule by fiat (officials making it up as they go).
- The law needs to be accessible and predictable so people can manage their land and their lives effectively and responsibly.



A landscape photograph showing a field of tall, golden-brown grasses in the foreground. In the middle ground, there are rolling hills covered in dense green trees and shrubs. The sky is a clear, deep blue. The overall scene is bright and natural.

I suggest the Panel...

- Ensure that the definitions are based on solid scientific premises.
- Require GWRC to publish the science that underpins the definitions – and engage with the community on it.
- Ensure that there are clear thresholds in each of the definitions so that the law is clear and understandable.

Whakawhetai koutou mo te
whakarongo. Any patai?

