

**IN THE MATTER OF The Resource Management Act  
1991, Subpart 6 concerning  
Intensification Streamlined  
Planning Process**

**AND IN THE MATTER of Plan Change 2, a Council-led  
proposed plan change to the Kapiti  
Coast District Plan under the  
Resource Management Act 1991,  
Schedule 1 Subpart 6.**

**LEGAL SUBMISSIONS ON BEHALF OF**

**Manly Flats Limited**

**15 March 2023**

1. These submissions are made on behalf of Manly Flats Limited.
2. Manly Flats Limited owns a property at 127 Manly street which comprises six flats which in the 60s were motel units. A tiny corner of the property at its NW corner, bordering on the coastal reserve access way, has been included in the proposed CQMP. (see Map 08 PRECx3 the SE corner of the CQMP....the green strip is the beach access between 127 and 129 Manly street, underneath which there is a stormwater pipe.)
3. Manly Flats Limited opposes that inclusion for specific reasons set out in the original submission and these legal submissions. It also opposes the CQMP generally for the reasons set out in the submissions of Philip Milne for Coastal Ratepayers United (CRU) which it adopts along with the evidence of Sean Rush and also covered in my personal submission.

**Objection to the inclusion of any part of the Manly Flats Limited property in the CQMP**

4. I limit these submissions to the inclusion of part of the Manly Flats property in the proposed CQMP.
5. Manly Flats does not accept that the Council currently has sufficient information to be able to assert that any part of the Manly Flats is *likely* to be subject to erosion within the 100 year planning horizon. Indeed it is possible that the inclusion is the result of a mapping error.
6. This is an area of Paraparaumu beach which (by reference to historic aerial photos) has accreted by over 100m over the last 60 years and in respect of which (in contrast to areas to the north) there is no long term erosion trend. Indeed, there is no evidence that the accretion which has occurred on the coastal strip seaward of the property since the 1950s, has reversed in recent years in front of the property. There has been some minor beach front erosion over the

6 months or so which is associated with the intense rainfall and associated flow from the Council stormwater drain which empties out at the end of the beach access track between 127 and 129 Manly street.

7. The large outflows from the drain have created erosion on either side of the drain entrance on to the beach. Because of the sand build up which occurs, the Council excavates the beach at the end of the pipe on a regular basis to allow the pipe to flow freely. That in turn exacerbates local temporary erosion during flood events. The erosion is predominantly caused by the significant outflow from the stormwater pipe coupled by the excavation work which lowers the beach and encroaches on the foredune in this area.
8. That work and the damage caused to the fore dunes by the beach access (which has lowered the natural dune) create an area of weakness. This is not a natural hazard. It is the result of infrastructure management decisions by the Council.
9. In any event, to date this weakness has not resulted in any erosion trend in front of either 127 Manly Street. I acknowledge that there has been some erosion in recent years 50 meters or so to the north of the property . This erosion increases further north and it is worst closest to the river mouth. I urge the Panel to visit this part of the Coast and observe for itself the significant accretion beachside of 127 Manly Street and the limited recent erosion created by the Council's stormwater management.
10. The Jacobs report has included a tiny slither of the property at its North West corner, as being subject to future coastal erosion. This is despite the fact that the s32 report, states that the erosion hazard scenario used in PC2 is "*highly unlikely*" (s32 report, page 155) and Mr Todd in his evidence at para. 25(b) states that the erosion scenario used in PC2 is "*very unlikely*".
11. I can only assume that this proposed inclusion is a result of the damage to the foredune created by the Council managed beach access which starts at the street between 127 and 129 Manly street. I agree that this creates an undesirable line of weakness. That is a problem which can and should be fixed. The Council should not be exacerbating erosion or inundation risks. The Council through the CAP process is looking at adaptation measures and will need to address issues such as this, but at the moment CAP and the Council have not consulted with ratepayers regarding these measures and the Council has no recommendations before it.
12. Manly Flats Limited has not been advised by the Council that its property might (*very unlikely*) be subject to erosion in the future. Accordingly, it has had no opportunity to consider the basis for the current CQMP or to make submissions to the Council regarding adaptation/mitigation of the Council exacerbated risk (if there is a risk).
13. Leaving aside any wider technical concerns with the Jacobs report, it is clear that the work to date is not sufficiently reliable or site specific for Jacobs or the Council to be able to conclude that one corner of the property *might* be subject to erosion but the balance of the beach side frontage of the property will not be.

14. If the Panel upholds the CQMP and if the property remains partially included in the CQMP, then potential purchasers of the property or any of the 6 flats within the property will be confronted with a LIM includes the CQMP. Potential purchasers may wrongly conclude that the property is subject to likely future erosion when that is clearly not the case. I assume that 3 story development will not be permitted as of right on any part of the property. (I have not had an opportunity to confirm whether that is how the provisions apply.)
15. In contrast, the properties to the immediate south of 127 Manly Street are outside of the proposed CQMP and will be available for intensification. This contrast is likely to adversely affect the value of the Manly Flats property and may discourage potential purchasers. It also reduces the potential for the large street site frontage to be subdivided and developed if Manly Flats was to seek that.
16. In contrast, I observe that further down Manly Street between the boating club and slightly north of George street the proposed Plan Change zones as PREC B. I can not understand how an low lying beach front areas immediately to the north of a significant stream, can be zoned for six storey development. There is no coastal protection in this area. The Panel should be asking questions about this anomaly. What is the basis for allowing 6 story development anywhere seaward of Manly street? Is the council **certain** that this low lying area is not going to be subject coastal erosion and/or inundation? On what basis given that Jacobs has not carried our a risk assessment.
17. If there is clear evidence of likely erosion and/or inundation at the property, then Manly Flats Limited accepts that this should be shown on District Planning maps. However, as I have submitted for CRU the process for decisions as to where hazard lines are and what controls are associated with those is via a coastal hazards Plan Change which has not yet been developed even as a draft.
18. In any event, even if the prediction of possible erosion was reliable, the low lying walkway is a council made facility which can be raised or the margins protected. Whether or not that occurs is a matter for the Councils adaptation plans which are not yet public let alone consulted on. If the Council walkway is creating a hazard, then the Council should be obliged to protect the properties either side of the walkway for erosion or inundation caused by Council infrastructure.
19. In the meantime, it is premature to *blight* the value of a property based upon an interim study which purports to predict a very unlikely event based on an inundation/erosion pathway facilitated by the Council.
20. **Whether or not any part of the Manly Flats Property is eventually included in the Coastal Hazard part of the District Plan is for another process. This Panel should not be predetermining the outcome of that process based upon an interim and untested report.**
21. Manly Flats Limited seeks the same relief as Philip and Catherine Milne. In short, either delete the entire CQMP, **OR** base it on existing plan provisions **OR** make it precautionary and exclude

all of the low lying coastal margin on an interim basis until the Council has finalised its coastal hazard identification and management provisions.

22. In addition Manly Flats submits that if the panel upholds the CQMP, it should move the edge of the CQMP slightly northwards and ideally westward to exclude the slither of the Manly Flats property.
23. Manly Flats also submits that if the CQMP remains, then the qualification sought by CRU and myself should be included.

**Philip Milne**

**For and on behalf of Manly Flats Limited**