


For office use only
Submission No:
19


TO: Kapiti Coast District Council:

Either

Deliver to 175 Rimu Road, Paraparaumu 5032 Attention District Planning Team or

You can email this submission to: district.planning@kapiticoast.govt.nz

SUBMISSION ON PROPOSED PLAN CHANGE 2 TO THE OPERATIVE KAPITI COAST DISTRICT PLAN 2021.

Full Name of Submitter: **CHRISTOPHER JOHN MOXON**

Contact Person (name and designation if applicable):

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CHRIS.MOXON@MOXONPARTNERS.COM

I would like my address for service to be my email **YES/NO** (delete one)

I have selected email as my address for service, and I would also like my postal address withheld from being publicly available **YES/NO** (delete one)

SCOPE OF SUBMISSION

My submission relates to:

1. The need for an enlarged Coastal Qualifying Matter Precinct.
2. The need for Beach Residential Qualifying Matter Precincts.
3. The zoning of Local Centre Zones and the application of Residential Intensification Precinct B around Local Centre Zones.

My submission is that:

1. The landward (eastern) boundary of the Coastal Qualifying Matter Precincts for the District (marked PRECx3) should be amended to be the landward boundary of the area shown as Coastal Environment in the District Plan.
2. Alternatively, if submission 1 is not accepted, that the landward (eastern) boundary of the Coastal Qualifying Matter Precincts for the District (marked PRECx3) should be amended to be the landward boundary of the areas shown as the Adaptation Zones, which the Kapiti Coast District Council recently determined and published on its Takakutai Kapiti Coastal Hazard Susceptibility Assessment maps.
(<https://maps.kapiticoast.govt.nz/portal/apps/storymaps/stories/dbc000c7263f4d63b8978047ed0e826b>)
3. Further, or alternatively, that existing Beach Residential Precincts become Beach Residential Qualifying Matter Precincts under PC2 and that accordingly:

- a. Residential Intensification Precinct B PREC2 be removed from all Beach Residential Qualifying Matter Precincts; and
 - b. All existing Beach Residential Precinct plan provisions continue to apply to the Beach Residential Qualifying Matter Precincts.
- 4. Further, or alternatively, in relation to Local Centre Zones:
 - a. That there be such other consequential amendments to Local Centre Zones as are required to give effect to a Beach Residential Qualifying Matter Precinct or enlarged Coastal Qualifying Matter Precinct.
- 5. Such further or other consequential relief as is required to give effect to the submissions above.

The Reasons for My submissions

Given the large volume of documentation provided in the support of PC2 and the very short time given to submitters to consider, absorb and respond, these reasons are necessarily high level.

I/We consider:

- 1. Part 2 of the RMA, in particular sections 5, 6(a) and (h), 7(c) and (i) supports the submissions made above.
- 2. The submissions are consistent with Council's ability to exclude areas to which the MDRS provisions apply under Section 77G of the RMA.
- 3. The submissions are consistent with Section 77L of the RMA.
- 4. The submissions are consistent with the New Zealand Coastal Policy Statement, in particular Policy 25 (a),(b),(c) and (d) and current District Plan Coastal Environment area as noted in the District Plan maps, whereas the application of MDRS zoning in the area subject to coastal hazards, including increases in the risk of inundation due to climate change, is contrary to Policy 25 (a),(b),(c) and (d).
- 5. The submissions are consistent with the National Adaptation Plan process.
- 6. The submissions are consistent with the National Policy Statement for Freshwater Management particularly in relation to wetland, flood and stormwater management.
- 7. The submissions are consistent with other non-statutory documents produced in consultation with the community by the Council and previous decisions of the Council

As the Panel are aware, Policy 25 of the New Zealand Coastal Policy Statement 2010 is as follows:

Subdivision, use, and development in areas of coastal hazard risk

"In areas potentially affected by coastal hazards over at least the next 100 years:

- (a) avoid increasing the risk of social, environmental and economic harm from coastal hazards;*
- (b) avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;*
- (c) encourage redevelopment, or change in land use, where that would reduce the risk of adverse effects from coastal hazards, including managed retreat by relocation or removal of existing structures or their abandonment in extreme circumstances, and designing for relocatability or recoverability from hazard events;*
- (d) encourage the location of infrastructure away from areas of hazard risk where practicable;*
- (e) discourage hard protection structures and promote the use of alternatives to them, including natural defences; and*

(f) consider the potential effects of tsunami and how to avoid or mitigate them."

Planning Change 2 would violate the above NZCPS 2010 Policy 25, since it permits redevelopment in the form of intensification by way of the MDRS (3 dwelling/3 storeys) zoning in the area of Kapiti District exposed to coastal hazards, specifically the hazards of inundation, which will be exacerbated by sea level rise. Since the application of MDRS zoning in these areas would violate Policy 25 of the NZCPS 2010 that constitutes a "coastal qualifying matter" which is the basis for MDRS not to be applied to that area.

PC2 includes a "Coastal Qualifying Matter Precinct" but that is confined to a narrow strip of coast and solely related to erosion risk. The relief sought is that the Coastal Qualifying Matter Precinct landward boundary should be much further east so the precinct includes the entire area subject to the coastal hazard of inundation.

At present the District Plan includes an area designated as the "Coastal Environment" area. That is the best available delineation in the District Plan of the "area potentially affected by coastal hazards over at least the next hundred years" where Policy 25 requires that zoning:

(a) avoid increasing the risk of social, environmental and economic harm from coastal hazards;

(b) avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards

Note from NZCPS 2010: *Risk is often expressed in terms of a combination of the consequences of an event (including changes in circumstances) and the associated likelihood of occurrence (AS/NZS ISO 31000:2009 Risk management – Principles and guidelines, November 2009).*

Clearly, intensification will increase the risk of harm from coastal hazards in this area and thus intensification violates the requirement to avoid redevelopment that would increase the risk of adverse effects from coastal hazards.

Thus the relief sought is that the Coastal Qualifying Matter Precinct landward boundary should be extend so the precinct includes the full area designated as Coastal Environment on the District Plan.

As the Panel members are aware, the identification of the area subject to coastal hazards is governed by Policy 24 of the NZCPS 2010. Review and refinement of the delineation of the "area potentially affected by coastal hazards over at least the next hundred years" has been the subject of litigation and controversy regarding conformity to the provisions of Policy 24.

The Council has published maps on which include delineation of areas described as Adaptation Zones with the remainder of the district being described as "Outside Coastal Influence". These maps however show changes in potential for flooding in the area "Outside Coastal Influence" as being affected by rising sea level. These maps do authoritatively establish that flooding in the in the areas delineated as Adaptation Zones is affected by sea level and is therefore a coastal hazard, with the Adaptation Zones therefore are definitely an "area potentially affected by coastal hazards over at least the next hundred years" and thus subject to Policy 25.

The Council argues that provisions in PC2 that habitable floors of dwellings must be above the AEP 1% level and other related provisions ensure PC2 MDRS intensification does not violate Policy 25. This is not valid. It is obvious that the increase in the risk of economic harm from coastal hazards in areas subject to flooding influenced by sea levels is not eliminated just because habitable floor levels are required to be above the AEP 1% level. Intensification would materially increase the private assets exposed to loss, vehicles being just one example. Intensification would materially increase exposure to economic loss not only for sites part of which is vulnerable to inundation but also for sites in the area which themselves would not be flooded. Such sites in the coastal area subject to inundation would likely be cut off by inundation of roads which would force their residents to relocate until the inundation subsided thereby incurring significant economic losses. Their assets such as vehicles would be stranded. Intensification would also inevitably increase the infrastructure and other public assets

exposed to loss. Thus the provisions on which the Council relies to address the requirement of Policy 25 in PC2 do not bring PC2 into compliance with that policy of NZCPS 2010. These observations are common-sense and do not require expert knowledge but experts on coastal hazards are concerned that local authorities will be tempted to resort to such inadequate responses as those on which the Council relies in PC2.

See papers:

Inadequacy Revealed and the Transition to Adaptation as Risk Management in New Zealand, Judy Lawrence, Sylvia Allan and Larissa Clarke; POLICY AND PRACTICE REVIEWS published: 19 November 2021, doi: 10.3389/fclim.2021.734726

Judy Lawrence, Sylvia Allan, Larissa Clarke (2021). Using current legislative settings for managing the transition to a dynamic adaptive planning regime in New Zealand. Wellington: Resilience to Nature's Challenges National Science Challenge - Enabling Coastal Adaptation Programme

The Council's argument also represents an invalid use of Building Act provisions.

HEARING SUBMISSIONS

I/We wish to be heard in support of our submission ~~YES~~/NO (delete one)

If others make a similar submission I will consider presenting a joint case with them ~~YES~~/NO (delete one)

Limited to

Signature of Submitter



Dated:

12 SEPT 2022.

Note A signature is not required if you make your submission by electronic means.

Trade Competition [select the appropriate wording]

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

~~Would~~ / I could not gain an advantage in trade competition through this submission.

If you could gain an advantage in trade competition through this submission, please complete the following:

I am / I am not directly affected by an effect of the subject matter of the submission that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

From: [chris.moxon](#)
To: [Mailbox - District Planning](#)
Cc: [chris.moxon](#)
Subject: Submission on proposed plan change 2 to operative district plan
Date: Monday, 12 September 2022 9:33:09 am
Attachments: [District Plan Submission Moxon Sept 12 2022.pdf](#)

To whom it may concern,

My submission is attached below.

Best

Dr Chris Moxon