For office use only
Submission No: 105

TO: Kapiti Coast District Council:

district.planning@kapiticoast.govt.nz

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

Full Name of Submitter: **Waikanae Beach Residents Society Inc** (per Pat Duignan, Treasurer)

Contact Person (name and designation if applicable): **Pat Duignan** (Treasurer WBRSI)

Postal Address (or alternative method of service under section 352 of the RMA:

[redacted]

Telephone: 021 975 000

Electronic address for service of submitter (ie email): **pat.duignan@outlook.com**

I would like my address for service to be my email **YES**

I have selected email as my address for service, and I would also like my postal address withheld from being publicly available **YES**

SCOPE OF SUBMISSION

The specific provisions of the proposal that our submission relates to are:

1. The need for an enlargement of the area within the Coastal Qualifying Matter Precinct(s) (RECx3) in general and in the Waikanae Beach area in particular.
2. The need for Beach Residential Qualifying Matter Precincts and/or
3. The zoning of Local Centre Zones and the application of Residential Intensification Precinct B around Local Centre Zones.

SUBMISSION

Our submission is:

1. We oppose the plan change insofar as it:
    a. Unduly restricts the Coastal Qualifying Matter Precinct.
    b. Removes Beach Residential Precincts.
    c. Maintains Local Centre Zonings and the application of Residential Intensification Precinct B around those Local Centre Zones where located in areas that should be located in Coastal Qualifying Matter Precinct and/or Beach Residential Precinct.

We seek the following decision from the Kapiti Coast District Council:

1. Either:
    a. 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; or

b. 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)

Pending a plan change promulgated by the Council relating to Coastal Hazards.

2. Further, or alternatively, that existing Beach Residential Precincts become Beach Residential Qualifying Matter Precincts under PC2 and that accordingly:

   a. Residential Intensification Precinct B PRECx2 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.

3. Further, or alternatively, that such larger Beach Residential Qualifying Matter Precinct be adopted based on a full landscape assessment of the coastal environment, particularly as it relates to Waikanae Beach.

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 our submissions

We consider:

1. **Section 77I(a) and (b) of the RMA** provides:

   A specified territorial authority may make the MDRS and the relevant building height or density requirements under policy 3 less enabling of development in relation to an area within a relevant residential zone only to the extent necessary to accommodate 1 or more of the following qualifying matters that are present:

   (a) a matter of national importance that decision makers are required to recognise and provide for under section 6:

   (b) a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010:

2. Sections 5, 6(a) and (h), 7(c) and(i) supports the submissions made above.

3. Section 6(h) of the RMA requires councils to recognise and provide for the management of "***significant*** *risks from natural hazards"*. The requirement relates to significant risks from all natural hazards.

4. The Jacobs' report relied upon by the Council to identify a Coastal Zone Qualifying Precinct is a technical report from which the Council has "cherry picked" coastal erosion issues, and the

report acknowledges that it is not intended to be used as a basis for District Plan hazard lines and is not a "risk assessment". Other natural hazards encountered in the coastal environment are not addressed.

5. Policy 24 of the NZCPS provides that Councils must:

> *Identify areas in the coastal environment that are potentially affected by coastal hazards (including tsunami), giving priority to the identification of areas at high risk of being affected. Hazard risks, over at least 100 years, are assessed having regard to:*
>
> *(a) physical drivers and processes that cause coastal change including sea level rise;*
>
> *(b) short-term and long-term natural dynamic fluctuations of erosion and accretion;*
>
> *(c) geomorphological character;*
>
> *(d) the potential for inundation of the coastal environment, taking into account potential sources, inundation pathways and overland extent;*
>
> *(e) cumulative effects of sea level rise, storm surge and wave height under storm conditions;*
>
> *(f) influences that humans have had or are having on the coast;*
>
> *(g) the extent and permanence of built development; and*
>
> *(h) the effects of climate change on:*
>
> *(i) matters (a) to (g) above;*
>
> *(ii) storm frequency, intensity and surges; and*
>
> *(iii) coastal sediment dynamics;*
>
> *taking into account national guidance and the best available information on the likely effects of climate change on the region or district*

6. The identification process is intended to be implemented via the provision of hazard zones in District and Regional Plans. KCDC has not yet consulted on a draft plan change or notified a proposed plan change which identifies such areas though it has publicised that it intends to do so. Therefore the status quo should remain pending this plan change.

7. 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 failure of the Council to complete the identification required by Policy 24 implies that under Policy 3 – the "Precautionary approach" the appropriate approach is to treat the Coastal Environment designation in the District Plan as determining the area to which the Coastal Qualifying Matter applies.

8. Policy 25 of the NZCPS requires councils:

> *In areas <u>potentially affected</u> 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.

9. It is inappropriate to use the Jacobs report as a means to circumvent the required plan change that the Council has to promote on the Coastal Environment. It is an incomplete assessment and one that has not been subject to appropriate scrutiny.

10. The Council's provision for stormwater control and restrictions in the light of overland flows, flooding, and ponding is not reflected in an adequate CMQP. The Council has not recognised and provided for management of *significant risks from natural hazards.*

11. None of this is consistent with Objective 8 of NPS-UD itself (and repeated in Policy 1(f)) and which states New Zealand's urban environments should be:

    Resilient to the current and future effects of climate change.

12. And Policy 6(e) which requires when making planning decisions that affect urban environments, decision makers should have regard to:

    the likely current and future effects of climate change

13. This is consistent with:

    a. the MfE coastal hazards and climate change guidance 2017 and its July and August 2022 updates. Coastal-hazards-guide-final.pdf (environment.govt.nz)Interim guidance on the use of new sea-level rise projections | Ministry for the Environment

    b. the Intergovernmental Panel on Climate Change, Assessment Report 6, Working Group II Report, 2022, Summary for Policy Makers. Chapter 3 Box Sea Level Rise, Cross Chapter Paper 2 Cities by the Sea, Chapter 11 Australasia Sections relating to cascading impacts and uncertainty decision tools in Section 7. IPCC_AR6_WGII_SummaryForPolicymakers.pdf

14. PC 2 is contrary to 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.

15. The Council's position is that habitable floors of dwellings must be above the AEP 1% level and other related provisions ensure PC2 MDRS intensification is not contrary to Policy 25. This approach is problematic:

a. Intensification including the increase in impermeable site coverage from would materially increase the assets exposed to loss;
b. Cumulative effects, and whether sites will be able to accommodate internalised disposal of stormwater is moot.
c. Ignores the increase in the risk of economic harm from coastal hazards in areas subject to flooding influenced by sea levels which is not eliminated just because habitable floor levels are required to be above the AEP 1% level.
d. 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.
e. Intensification would also inevitably increase the infrastructure and other public assets exposed to loss. Experts on coastal hazards are concerned that local authorities will be tempted to resort to inadequate responses as those on which the Council relies in PC2[1] resulting in maladaptation.

16. 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.

17. At present the District Plan includes an area designated as the "Coastal Environment" area. That is the best currently 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

18. 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)*.

19. 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. This results in exposure of assets and people to risk of harm. Paulik et al 2019 provides evidence relating to exposure of assets and people at the coast of New Zealand[2].

---

[1] 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

[2] Paulik, R., et al., 2019: *Coastal Flooding Exposure Under Future Sea-level Rise for New Zealand*. NIWA, https://www.deepsouthchallenge.co.nz/sites/default/files/2019-08/2019119WN_DEPSI18301_Coast_Flood_Exp_under_Fut_Sealevel_rise_FINAL%20(1)_0.pdf . (76).

Paulik, R., et al., 2020: National-scale built-environment exposure to 100-year extreme sea levels and sea-level rise. *Sustainability*, **12**(4), 1513, doi:10.3390/su12041513.

20. 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, alternatively amended to be the landward boundary of the areas shown as the Adaptation Zones which the Council has published.

21. The Council has published maps 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.

22. We submit that, if the Panel concludes that the Coastal Qualifying Matter does not apply to the entire area designated as Coastal Environment in the District Plan, that qualifying matter certainly does apply to the areas marked as the Central Kapiti Adaptation Area and the other Adaptation Areas marked on the maps at (https://maps.kapiticoast.govt.nz/portal/apps/storymaps/stories/dbc000c7263f4d63b8978047ed0e826b)

23. PC2 fails to recognise at all section 6(a) of the RMA which requires it to recognise as a matter of national importance:

    (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

24. Section 77I read in conjunction with section 6 enables and requires, the Council to accommodate this requirement by including a qualifying matter which precludes intensification which would amount to inappropriate use and development of the coastal environment and/or which would fail to preserve the remaining natural character of the coastal environment.

25. The natural character of the coastal environment is a significant component of what makes Kapiti coast distinctive and valued. The Kapiti Coast is defined by its coastal plain leading to the hills of the Tararua Ranges. The coastal environment itself is a significant asset for the Council and local communities.

26. It is submitted that most residents of Kapiti would consider permitting 3 story (or greater) development along much of the urbanised Kapiti coast to be inappropriate. Such an approach ignores the existing effect of such development on the views of the coast, the sea and Kapiti Island from properties roads and public spaces inland of such development. The submissions are consistent with other non-statutory documents produced in consultation with the community by the Council and previous decisions of the Council including, but not limited to:

    a. *Choosing Futures The Community's Vision for the Kapiti Coast District Community Outcomes (First developed in 2003/04, reviewed in 2008/09 and reviewed and reaffirmed by Council in June 2012).*
    Outcome 1.2:
    The key focal points, such as the beaches, Kapiti Island, the Tararua Ranges, Otaki Forks are managed in a way that welcomes visitors but protects the essential qualities for which they are valued.

Outcome 2
The role, nature and character of each of Kapiti Coast's towns, villages, local and special areas, is respected and retained, and shapes the future form and quality of the District.
Numerous references under Outcome 2 of beach character.

b. Council's adoption of the Commissioners' decision on Variation 2 including:
3.77 The majority of submitters, with the exception of Mr Valentine, supported a greater restriction on larger, bulkier dwellings. These submitters clearly demonstrated to us their belief that larger, bulkier dwellings are incongruous with the character and identity of the Waikanae Beach neighbourhood proposed to be rezoned. Ms Poff's expert landscape evidence supports this belief, and we wish to recognise this.

27. Such coastal development as there is generally low rise and such higher rise development or dense development as exists does not provides justification for further significant detraction.

28. The impact of development needs to be considered from the perspective of those looking inland from the beach or the sea and for those looking seaward from inland of such development.

29. The Council's own evidence notes that beach character in the 4 beach residential precincts is distinct and separate. The Council has effectively endorsed its beach residential precincts by continuing to maintain policies relating to those precincts (GRZ-P4, GRZ-P5 and GRZ-P6).

30. The Council has not undertaken any wider landscape assessment of the effect of PC2 and its relationship with the NZCPS.

31. Policy 6 (1) of the NZCPS requires the Council to:

consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth <u>without compromising the other values of the coastal environment</u>;

The Council has not done this.

32. Policy 7 of the NZCPS requires Councils to:

identify areas of the coastal environment where particular activities and forms of subdivision, use, and development:

are inappropriate; and

may be inappropriate without the consideration of effects through a resource consent application, notice of requirement for designation or Schedule 1 of the Resource Management Act process; and provide protection from inappropriate subdivision, use, and development in these areas through objectives, policies and rules.

33. Policy 14 of the NZCPS promotes the restoration or rehabilitation of natural character of the coastal environment including identifying areas for restoration, providing policies and methods in the District Plan and through imposing conditions on resource consents and designations.

34. These policies have been given effect to by:

a. identifying and mapping areas of outstanding natural character and areas of high natural character in the coastal environment which are shown on the Natural Environment Maps, to enable protection from inappropriate subdivision, use and development and promotion of restoration to occur as part of future development of these areas. https://eplan.kapiticoast.govt.nz/eplan/#Rules/0/201/1/12788/0

b. The Council adopting beach residential precincts to recognise and provide for particular areas that contribute to the outstanding amenity of the Kapiti Coast. (Theloss of amenity from 3 storey height in these sensitive areas would be significant and this consideration outweighs the forgoing of potential further intensification. The loss of these beach residential precincts would be contrary to Part II of the RMA and the purpose of the Act is better achieved by keeping the beach residential precincts.)

35. Almost all of the Paraparumu and Waikanae coastline has been identified by the Council as an area of *"high natural character".* The Council is required to preserve this remaining natural character and to protect it from inappropriate development.

36. The Council's existing controls on building height, location and density provide protection from inappropriate development. Those controls and the objectives and policies which they serve should remain in place in and adjacent to all areas of high natural character rather than being supplanted by the carte blanche approach of the MDRS.

37. The PC2 provisions for intensification will create a permitted baseline for more intensive development in the Coastal Environment without the need to provide for more household units. This permitted baseline and the associated economics of intensively developing sites within areas of high land value and requiring hazards to be addressed, including deep foundations and internalisation of stormwater disposal will mean that intensification is more likely to be of larger single homes or extensions to existing homes utilising shallower foundations and less site coverage than the 50% the MDRS provisions allow which will not achieve the purpose of the NPS-UD or the Act but which will have a detrimental effect on the amenity, character and landscape value of the coastal environment and the areas currently zoned Beach Residential Precinct.

38. The submissions are consistent with Council's ability to exclude areas to which the MDRS provisions apply under Section 77G of the RMA.

39. The Council appears to have been advised that it cannot base a qualifying matter on the protection of character. It is noted that Auckland Council has included qualifying matters to protect the character of existing areas. Council's s32 statements on qualifying precincts for special charter areas are selective and unbalanced.

40. It is appropriate to consider the cumulative effects of natural hazards and natural character as qualifying matters and to make an overall assessment as to the requirement for a qualifying matter.

41. It is appropriate to consider the merits of existing Local Zones as they are impacted by any enlarged Coastal Qualifying Precinct or a Beach Residential Qualifying Precinct. Further Council has treated Local Centres inconsistently, with some Local Zones having not been assessed as to their ability to absorb the effects they will be subject to, while the Local Zone at 104 the Parade Paekakariki has been removed and the Local Centre at Ngarara Development Area has not been mapped sufficiently or had a Residential Intensification Precinct B notified. There has been no assessment of the need for a Local Centre at Te Moana in view of the likely impact of the Local Centre at Ngarara.

42. In conclusion to this submission, the Waikanae Beach Residents Society Inc hereby states its support for the submission of Glen Wiggs which includes details of inundation experiences and predictions relating to the Waikanae Beach area.

We seek the following decision from the Kapiti Coast District Council:

6. Either:
    a. 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; or

    b. 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)

    Pending a plan change promulgated by the Council relating to Coastal Hazards.

7. Further, or alternatively, that existing Beach Residential Precincts become Beach Residential Qualifying Matter Precincts under PC2 and that accordingly:

    a. Residential Intensification Precinct B PRECx2 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.

8. Further, or alternatively, that such larger Beach Residential Qualifying Matter Precinct be adopted based on a full landscape assessment of the coastal environment, particularly as it relates to Waikanae Beach.

9. Further, or alternatively, in relation to Local Centre Zones:

    b. 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.

10. Such further or other consequential relief as is required to give effect to the submissions above.

HEARING SUBMISSIONS

We wish to be heard in support of our submission **YES**

If others make a similar submission I will consider presenting a joint case with them **YES**

Signature of Submitter:  **Dated:15/9/2022**

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.

WBRSI 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:	Pat Duignan
To:	Mailbox - District Planning
Cc:	gerald rys; ^Quentin Poole; ^Glen & Kay Wiggs; gordon shroff; ^Pat Duignan; Pat Duignan
Subject:	Emailing: Waikanae Beach Residents Society Inc Submission on Proposed Planning Change 2 Kapiti District Plan September 2022.pdf
Date:	Thursday, 15 September 2022 2:50:40 pm
Attachments:	Waikanae Beach Residents Society Inc Submission on Proposed Planning Change 2 Kapiti District Plan September 2022.pdf

---

District Planning, Kapiti Coast District Council,

I attach the Waikanae Beach Residents Society Inc Submission on Proposed Planning Change 2 Kapiti District Plan, September 2022.

Please confirm receipt and that the format meets the requirements of Form 5.

Thank you,

Pat Duignan for Waikanae Beach Residents Society Inc.
Ph: 021 975 000