

Submission on notified proposal for plan change



About preparing a submission on a proposed plan change

You must use the prescribed form

- [Clause 6](#), Schedule 1 of the Resource Management Act 1991 (RMA) requires submissions to be on the prescribed form.
- The prescribed form is set out in [Form 5](#), Schedule 1 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.
- This template is based on Form 5. While you do not have to use this template, your submission must be in accordance with Form 5.

Your submission and contact details will be made publicly available

- In accordance with [clause 7](#) of Schedule 1 of the RMA, the Council will make a summary of your submission publicly available. The contact details you provide will also be made publicly available, because under [clause 8A](#) of Schedule 1 of the RMA any further submission supporting or opposing your submission must be forwarded to you by the submitter (as well as being sent to Council).
- [Section 352](#) of the RMA allows you to choose your email to be your address for service. If you select this option, you can also request your postal address be withheld from being publicly available. To choose this option please tick the relevant boxes below.

Reasons why a submission may be struck out

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least one of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious
- it discloses no reasonable or relevant case
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further
- it contains offensive language
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

To Kāpiti Coast District Council

Submission on Proposed Plan Change 2 to the Operative Kapiti Coast District Plan 2021

Submitter details

Full name of submitter:

Contact person (name and designation, if applicable):

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

Telephone:

Electronic address for service of submitter (i.e. email):

I would like my address for service to be my email *[select box if applicable]*

I have selected email as my address for service, and I would also like my postal address withheld from being publicly available *[select box if applicable]*

Scope of submission

The specific provisions of the proposed plan change that my submission relates to are:
[give details]

Continue on a separate sheet if necessary

Submission

My submission is: *[include whether you support or oppose the specific provisions or wish to have them amended; and reasons for your views]*

Continue on a separate sheet if necessary

I seek the following decision from the Kāpiti Coast District Council: *[give precise details]*

Continue on a separate sheet if necessary

Hearing Submissions [select appropriate box]

I wish to be heard in support of my submission.

I do not wish to be heard in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

If others make a similar submission, I will not consider presenting a joint case with them at a hearing.



Signature of Submitter
(or person authorised to sign on behalf of submitter)

Date

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.

I could / 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.

Email your submission to district.planning@kapiticoast.govt.nz or
post/deliver to:

Attn: District Planning Team
Kāpiti Coast District Council
175 Rimu Road
Paraparaumu 5032

For office use only

Submission No:

107





SUBMISSION – KĀPITI COAST DISTRICT COUNCIL PROPOSED PLAN CHANGE 2

KAPITI COAST DISTRICT

SUBMITTER: LAND
MATTERS LIMITED
September 2022

www.landmatters.nz

DELIVERING INNOVATIVE PROPERTY, COMMUNITY AND ENVIRONMENTAL SOLUTIONS

SUBMISSION ON BEHALF OF: LAND MATTERS LIMITED

Prepared by:



Milcah Xkenjik
Intermediate Planner

Reviewed by:



Bryce S Holmes
Principal Planner and Director

Date: 15 SEPTEMBER 2022
Version: FINAL
Job Ref: 999

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RMA FORM 5

Submission on publicly notified

Proposed Plan Change 2 to the Kāpiti Coast District Plan

Clause 6 of the First Schedule, Resource Management Act 1991

To: Kāpiti Coast District Council

1. Submitter details:

Full Name			
Company/Organisation <i>if applicable</i>	Land Matters Limited		
Contact Person <i>if different</i>	c/- Milcah Xkenjik, Land Matters Limited		
Email Address for Service	milcah@landmatters.nz		
Address	20 Addington Road		
	City	Postcode	
	Ōtaki	5581	
Address for Service <i>if different</i>	Postal Address		Courier Address
Phone	Mobile	Home	Work
	021 877 157		

2. This is a **submission** on the **Proposed Plan Change 2 to the District Plan** for Kāpiti.

3. 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 point four below:

4. I **am 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.

Note:

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.

5. I **wish to be heard** in support of my submission.
6. I **will not** consider presenting a joint case with other submitters, who make a similar submission, at a hearing.

Please complete section below (insert additional boxes per provision you are submitting on):

The specific provision of the proposal that my submission relates to:

See part 3

Do you: Support? Oppose? Amend?

See part 3

What decision are you seeking from Council?

What action would you like: Retain? Amend? Add? Delete?

Reasons:

See part 3.

1. BACKGROUND AND INTRODUCTION

Kāpiti Coast District Council (KCDC) has notified Plan Change 2 (PC2) to the Operative District Plan. As well as incorporating the Medium Density Residential Standards (MDRS) into the District Plan, PC2 also rezones some areas to *General Residential Zone*. Proposed PC2 was notified on 18 August 2022 and is open for submissions until 15 September 2022. This document is a submission on Proposed PC2.

This document sets out the general parts of the Proposed PC2 that LML seek to have amended, together with reasons for the suggested amendments.

2. SUBMISSION AND CHANGES SOUGHT

LML generally **opposes** the following parts of the Proposed PC2:

1. Lack of clarity for landowners in relation to Existing Hazard Qualifying Matters (including flood hazard and liquefaction hazard) in the subdivision rules and policies;
2. Failure to recognise a building consent as a mechanism to lawfully established a permitted activity building on land;
3. Inconsistent application of public and limited notification between provisions for subdivision in the General Residential Zone, and new buildings and structures requiring resource consent in the General Residential Zone
4. Inconsistent terminology in relation to outlook space provisions in all zones.
5. Inconsistent transportation requirements between the District Plan and Council's Land Development Minimum Requirements (LDMR).

LML **seek** the following general amendments to PC2 to better achieve the Purpose of the RMA:

- A. **Further clarity in the process relating to Existing Hazard Qualifying Matters in the subdivision rules and policies.**

Reasons: As drafted, compliant residential units can be established on land in identified hazard areas (including flood and liquefaction hazard areas) as a permitted activity. Land owners who establish additional units are likely to expect to be able to subdivide around those units but will trigger at least a restricted discretionary activity rule for subdivision in identified hazard areas.. This approach does not manage the potential hazard risk as dwellings will already be established. Greater clarity is required in the process including through the policies to ensure landowners understand the implications of the existing qualifying matters embodied in the subdivision rules for land in identified hazard areas.

- B. **Amendments to Controlled Activity Subdivision Rules SUB-RES-Rx1.1.b¹ and SUB-RES-Rx1.2.b² and Restricted Discretionary Activity Subdivision Rules SUB-RES-27.1.b³ and SUB-RES-27.2.b⁴ to**

¹ SUB-RES-Rx1.1.b: ...subdivision of land within the General Residential Zone...1. Where the parent allotment contains an existing residential unit:... b. the subdivision must comply with an approved land use resource consent.

² SUB-RES-Rx1.2.b:...subdivision of land within the General Residential Zone...2. Where the parent allotment does not contain an existing residential unit:... b. the subdivision must comply with an approved land use resource consent.

³ SUB-RES-R27.1.b: Subdivision of land which is not a controlled activity under SUB-RES-R25, SUB-RES-R26 or SUB-RES-Rx1...1. Where the parent allotment contains an existing residential unit:... b. the subdivision must comply with an approved land use resource consent...

⁴ SUB-RES-R27.2.b: Subdivision of land which is not a controlled activity under SUB-RES-R25, SUB-RES-R26 or SUB-RES-Rx1...1...2. Where the parent allotment does not contain an existing residential unit:...b. the subdivision must comply with an approved land use resource consent...

include compliance with approved land use resource consent or building consent.

Reasons: Residential units/buildings could be constructed as a permitted activity and lawfully established (on land that contains an existing residential unit or is vacant) via the building consenting process. Requiring an approved land use consent where a building consent lawfully establishes a permitted building on a site as a non-complying activity under Rule SUB-RES-R32⁵ results in a perverse outcome.

- C. **Amendments to Restricted Discretionary Activity Subdivision Rule SUB-RES-R27⁶, where the development does not comply with one or more of the standards under rules GRZ-Rx1 or GRZ-Rx2, except for standard GRZ-Rx1.1** to provide for an application for resource consent under this rule to exclude public notification.

Reason: To provide consistency across the development and subdivision provisions. If construction of a dwelling or building which does not comply with one or more of the standards under rules GRZ-Rx1 or GRZ-Rx2 except for standard GRZ-Rx1.1 can be processed without public notification, then the same should apply to subdivisions where a land use consent exists or where compliance can be demonstrated with those same rules.

- D. **Amendments to Restrict Discretionary Activity Subdivision Rule SUB-RES-R27 where the development does comply with all the standards under rules GRZ-Rx1 or GRZ-Rx2, except for standard GRZ-Rx1.1** to provide an application for resource consent under this rule to exclude public and limited notification.

Reason: To provide consistency across the development and subdivision provisions. If construction of a dwelling or building which complies with all the standards under rules GRZ-Rx1 or GRZ-Rx2 can be process on a non-notified basis without notifying any party; then the same should apply to subdivisions where a land use consent exists or where compliance can be demonstrated with those same rules.

- E. **Amendments to GRZ-Rx1.8.h (and other subsequent zoning provisions with similar requirements for outlook spaces)** to remove the term “dwelling” and replace with either “residential building” or “residential unit”.

Reason: The District Plan nor the National Planning Standards include an interpretation for the term “dwelling”. In particular, given that outlook spaces could be located in different residential units within a building, consistent terminology is required to avoid confusion of what a dwelling constitutes as, where residential unit and residential building are already defined.

- F. **Amendments to Subdivision Rule SUB-RES-Rx1.7 in the Residential Zone** to remove the requirement that the maximum number of allotments gaining legal and physical access by rights of way shall be 6.

- G. **Amendments to Subdivision Rules and ‘Matters of Discretion’ in respect of those rules; and subsequent amendments to KCDC’s Land Development Minimum Requirements document (LDMR) Section D Transportation and Schedule 3 ‘Altered requirements to Section 3 NZS 4404:2010 Roads’** in relation to the limiting of the number of users off a right of way; and specifying the formed and easement widths of right of ways.

Reasons: Currently the subdivision rules in the General Residential Zone limits the number of

⁵ SUB-RES-R32: Any subdivision of land which is not a controlled activity under SUB-RES-R25, SUB-RES-R26 or SUB-RES-Rx1, a restricted discretionary activity under SUB-RES-R27, or a discretionary activity under SUB-RES-R30.

⁶ SUB-RES-R27: Subdivision of land which is not a controlled activity under SUB-RES-R25, SUB-RES-R26 or SUB-RES-Rx1.

users off a right of way to 6 users and compliance with all standards in the Transport Chapter⁷ as a Controlled Activity. Refer rule SUB-RES-R26 standards 6 and 7⁸ and under SUB-RES-Rx1 standards 7 and 8⁹ as examples of where this applies.

Section D – Transportation of KCDC’s (LDMR) document states that:

“the Place and Link contexts and Table 3.1 in NZS 4404:2010 should be used as minimum requirements for decision-making on transport infrastructure and services... Table 3.2 in NZS 4404:2010 should be used as the basis for road design, except where the schedules in the Council’s Land Development Minimum Requirements specify otherwise.”(pps 49 and 50, LDMR)

and

Schedule 3 ‘Altered requirements to Section 3 NZS 4404:2010 Roads’ states that:

At paragraph 32 (pps 110 and 11, LDMR) refers to the following additional requirement:

(vi) Any developments over 10 dwellings must have the vehicle access designed as an intersection, and not a driveway, unless otherwise approved by Council.

Reasons:

We are seeking consistency across the District Plan provisions and KCDC’s LDMR document in respect of access and road formation and legal width. The provisions set out in Table 3.2 in NZS 4404:2010 should be used not only for the basis of *legal road* design but also for all right of ways and access designs. This should be provided for in any subdivision and development rules and Schedule 3 of the LDMR should provide for this perhaps as a variation to Clause 3.3.16 of NZS4404 *Private ways, private roads and other private accesses*

It is observed that Kapiti Coast District Council has recently been accepting right of ways (as opposed to the vesting of roads or limiting the number of users on a right of way) serving many more than six allotments for comprehensive residential developments provided the design is consistent with Table 3.2 of NZS4404:2010.

When considering a development and subdivision under the MDRS provision, taking into account other relevant documents such as Council’s Streetscape Strategy and Guideline, we consider this to be an appropriate response for medium density development and subsequent subdivision of that development.

LML generally **supports** the following parts of PC2:

1. Recognition of policies that recognise diverse and new co-housing arrangements.

LML **seek** the following general amendments to PC2 to better achieve the purpose of the RMA:

A. Amendments to District Objectives Chapter, Urban Form and Development Chapter, and

⁷ TR-R3: (1) Access - every site must provide vehicular access over land or by mutual right of way or service lane for parking and/or loading and shall be in accordance with [TR-Diagram - 2](#). (2) Access - all vehicle accesses must be designed, constructed and maintained to ensure that: a. they are able to be used in all weather conditions; b. they have no adverse impact on the roadside drainage system; and c. surface water and detritus (including gravel and silt) does not migrate onto the highway pavement. (3) Access - all accesses must meet the following: (a) be a minimum of 3.5 metres wide, except for as set out in [TR-Table 1](#). (b) be a maximum of 9 metres wide, except in the Beach Residential Zone at Waikanae Beach where the maximum shall be 6.0 metres wide....

⁸ Standard 6: The maximum number of allotments gaining legal and physical access by rights of way shall be 6.

Standard 7: Access to all allotments must comply with the standards in the Transport chapter.

⁹ Standard 7. The maximum number of allotments gaining legal and physical access by rights of way shall be 6.

Standard 8. Access to all allotments must comply with the standards in the Transport chapter.

General Residential Zone to support co-housing.

Reasons: It would be beneficial to see robust Objectives and Policies that particularly support co-housing as a principle which is not strictly limited to supported living or older persons accommodation.

From: [Milcah Xkenjik](#)
To: [Mailbox - District Planning](#)
Subject: LML - PC2 Submission - 15 September 2022
Date: Thursday, 15 September 2022 3:12:04 pm
Attachments: [LML - PC2 Submission - 15 September 2022.pdf](#)

Kia ora,

On behalf of Land Matters Limited, please find attached a submission on the Kapiti Coast Proposed Plan Change 2. Please let us know if you require any further information.

We look forward to hearing from you.

Kind regards,
Milcah

Milcah Xkenjik

Intermediate Planner

Tel: [021877157](tel:021877157)

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